466.

SUPREME COURT OF THE UNITED STATES,

No. 117.

THOMAS LEGGETT, Jr., SAMUEL SMITH, and SMITH LAWRENCE, Appellants,

vs.

BENJAMIN G. HUMPHREYS.

APPEAL FROM THE CIRCUIT COURT UNITED STATES FOR THE SOUTHERN DISTRICT OF MISSISSIPPI.

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B. G. HUMPHREYS
vs.
LEGGETT, SMITH and LAWRENCE.

Pleas before the Honorable Samuel J. Gholson, District Judge of the United States, at a Circuit Court of the United States, held at the town of Jackson, in and for the Ninth Circuit and Southern District of Mississippi, at the May term, in the year of our Lord one thousand eight hundred and fifty-six.

Be it remembered, that, heretofore, to wit, on the 17th day of May, 1845, came Benjamin G. Humphreys, by his solicitor Henry T. Ellett, into the Clerk's office of said Court, and filed his certain bill herein against Leggett, Smith and Lawrence, which bill, with the Exhibit thereto, is in the words and figures following, to wit:—

To the Honorable the Judges of the Circuit Court of the United States for the Southern District of Mississippi.

Benjamin G. Humphreys, of the County of Claiborne, and a citizen of the State of Mississippi, brings this his bill against Thomas Leggett, Jr., Samuel Smith and Smith Lawrence, citizens of the State of New York.

And thereupon your orator complains and says, that on the tenth day of November, A. D. 1837, your orator and one John Grissom became sureties on the official bond of Richard J. Bland, then elected sheriff of Claiborne county, which bond was in the penalty of fifteen thousand dollars, payable to Charles Lynch, Governor of the State of Mississippi, and his successors in office, and conditioned for the faithful performance by the said Bland of all the duties of the said office of sheriff.

Your orator further showeth, that on the third day of March, A. D. 1839, the said Leggett, Smith and Lawrence instituted an action upon said bond, on the law side of this honorable Court, in the name of Alexander G. McNutt, Governor of said State of Mississippi, successor of said Charles Lynch, for the use of them the said Leggett, Smith and Lawrence against the said Bland, and your orator and said Grissom, his sureties, to recover damages against them for an alleged breach by said Bland of the condition of said bond: And such proceedings were afterwards had thereupon in said Court, that at the November term of the Court aforesaid, A. D. 1839, and on the twenty-sixth day of said month the said action was dismissed as to said Grissom, and it was considered by the Court that the plaintiff take nothing by said bill, and that the defendants Bland and Humphreys go thereof without day and recover their costs, &c.: All which will more fully appear by reference to the record and proceedings in said cause now remaining in this honorable Court, which are hereby referred to and made part of this bill.

And your orator further showeth that the plaintiff in said action, after the judgment aforesaid, remanded said cause to the Supreme Court of the United States, by appeal or writ of error, and afterwards, to wit, at the January term, A. D. 1844, of said Supreme Court, the aforesaid Judgment of this honorable Court was reversed, the death of said Bland was suggested, and ordered to be entered upon the record, and the said cause to be remanded to this Court, with directions to your Honors to enter judgment against your orator alone in favor of the said plantiffs. That on the day of February, A. D. 1845, the mandate of the said Supreme Court was filed in the Clerk's office of this Court, and on the 14th day of May, 1845, your Honors entered judgment on the law side of this Court against your orator in favor of said plaintiffs, for the sum of six thousand three hundred and fifty-four dollars and thirty-three cents, with costs, as by reference to said proceedings and judgment now of record in said Court will more fully appear.

Your orator further showeth unto your Honors that from the commencement of said suit in this Court by said Leggett, Smith and Lawrence, until after the said judgment of reversal in the said Supreme Court, your orator had no notice or knowledge whatever of said suit, or of any of said proceedings. He states that no process was ever served or attempted, to his knowledge, to be served on him. He admits that the Deputy Marshal has made a return that he executed process in said cause upon your orator personally, on the 14th day of October, A. D. 1839. But your orator states that the said return is absolutely untrue in point of fact. Your orator has on this 15th day of May, 1845, discovered that he can prove, by at least one credible and competent witness, that the Deputy Marshal made the said return at the request of said Bland, and without pretending to have in fact executed said writ—said Bland stating to said Deputy that he wished said suit kept secret from your orator, and that he (said Bland) would give it every attention, and save the said Deputy from all harm. Your orator states that it was some time after the decision of the case in the Supreme Court that he first heard of such suit, that he never knew of it before, never employed counsel, or consulted with them in either Court, and never authorized any person to enter an appearance for him. Your orator insists that on this ground alone said judgment ought to be perpetually enjoined; but if your Honors should think differently, he insists that it is competent for him to show the facts, in order to avoid any imputation of laches that might otherwise attach to him in reference to subsequent proceedings to which your orator will now refer.

Your orator showeth, that in the spring of the year A. D. 1840, the said Richard J. Bland, he still being sheriff of said county, was found to be greatly in arrear for money collected by him on executions, and for his failure to execute divers writs of *fieri facias*, and other writs which had come to his hands as such sheriff to be executed, and at the same time it was ascertained that the said Bland

was nearly destitute of property, and insolvent to a large amount: And your orator sheweth, that at the May term, A. D. 1840, of the Circuit Court of Claiborne county, the President, Directors, and Company of the Planters' Bank of the State of Mississippi, on motion before the said Court, recovered a judgment against the said Richard J. Bland, Sheriff, as aforesaid, and your orator his surety, upon the said official bond of said Bland, dated November 10th, A. D. 1837, and set forth in the declaration in said suit of A. G. McNutt, use of said Leggett, Smith, and Lawrence, for the sum of twelve thousand three hundred and twenty-five dollars and twenty-two cents, damages, for a breach of the condition of the said bond; and said bank also in like manner, at the same term of said Court, recovered another judgment against said Bland and Humphreys for the sum of twenty-six hundred and seventy-four dollars and seventy-five cents, being the amount of the balance of the penalty of said official bond, after deducting the said recovery of $12,325 22, whereby the full amount of the penalty of the said bond, in said declaration mentioned, was exhausted by recoveries against the said Bland and your orator, except as to the sum of three cents, for which there appears to be a mistake made in the calculations: And your orator sheweth that executions were issued on the judgments so recovered by the said Planters' Bank, that the property of your orator was all levied on by the coroner of Claiborne county, under said executions, and was sold about the twenty-third day of September, A. D. 1840, at the Court-House door, and the full amount of the said two judgments of the Planters' Bank was thereby made and collected, and the full penalty of the official bond of said Bland given, Nov. 10, 1837, and thereby satisfied and paid by your orator. Your orator annexes and files herewith transcripts of the said judgments and proceedings in favor of said Planters' Bank, marked Exhibits *A* and *B*, and makes the same part of this bill. He states that he was also surety for said Bland on a sheriff bond given in November, A. D. 1839, on which judgments were also obtained against him and levied on the same property, which will explain any apparent want of perspicuity in the coroner's returns. Your orator also states, that at the time of the recovery of the above named judgments of the Planters' Bank against him, he had no notice or knowledge whatever of the pendency of said suit of McNutt use of Leggett, Smith and Lawrence.

And your orator sheweth that, as soon as he heard of the existence of the said suit, which was not until after the reversal of the judgment of this Court by the said Supreme Court; he applied to counsel and prepared a plea to be filed in said case, setting up his defence thereto. But your Honors not conceiving it competent to do anything but to obey the mandate of the Supreme Court, refused to permit your orator to file said plea, and left him to seek other remedy. Your orator files herewith the plea by him offered as aforesaid and rejected by the Court with his affidavits thereto ap-

pended and attached, marked *Exhibit C*, and makes the same part of this bill.

To the end, therefore, that the said defendants may, if they can, shew why your orator should not have the relief hereby prayed, and may upon their oaths, and to the best of their knowledge, remembrance and belief, full, true and perfect answer make to all the matters stated in the foregoing bill; and that the said Leggett, Smith and Lawrence, be enjoined from taking out any execution upon the judgment obtained by them against your orator or from executing the same, and from taking any step or proceeding upon said judgment against your orator until your Honors shall make order to the contrary; and that, upon final hearing of this cause, said injunction may be made perpetual, or that your orator may have such other and further relief as your Honors may think meet and may be agreeable to equity and good conscience.

May it please your Honors to grant your orator process of subpœna against the said Thomas Leggett, Jr., Samuel Smith, and Smith Lawrence, commanding them to appear before your Honors, on a certain day therein to be named to answer this bill and to stand to and abide by such order and decree, as your Honors may make in the premises, and he will ever pray, &c.

H. T. ELLETT,
Sol'r and Counsel for Complainant.

UNITED STATES OF AMERICA,
Southern District of Mississippi.

Personally appeared before the undersigned Commissioner for said District, Benjamin G. Humphreys, who made oath that the matters stated in the foregoing bill, as of his own knowledge, are true, and those derived from the information of others he believes to be true.

BENJ. G. HUMPHREYS.

Sworn to and subscribed this 16th day of May, 1845.

W. H. BROWN,
U. S. Commissioner.

Copy of the original record and proceedings referred to, and made part of said bill.

ALEXANDER G. MCNUTT, use, &c.,
vs.
RICHARD J. BLAND, *et al.*

Pleas before the Honorable Samuel J. Gholson, District Judge of the United States at a Circuit Court of the United States, held at the town of Jackson, in and for the Ninth Circuit and Southern District of Mississippi, at the November term, in the year of our Lord one thousand eight hundred and thirty-nine.

Be it remembered that, heretofore, to wit, on the 28th day of

March, in the year of our Lord one thousand eight hundred and thirty-nine, came Alexander G. McNutt, Governor of the State of Mississippi, and the successor of Charles Lynch, who sues for the use of Leggett, Smith and Lawrence, by Norcom and Mason, his attorneys, into the Clerk's Office of the Court aforesaid, and sued out the following writ of summons, *ad respondendum*, against Richard J. Bland, *et al.*, to wit:—

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss.

The President of the United States, to the Marshal of the Southern District of Mississippi, greeting:—

We command you, without delay, to summon Richard J. Bland, Benjamin G. Humphreys, and John Grissom, citizens of the State of Mississippi, that they be and appear before the Circuit Court of the United States, to be held at the town of Jackson, in and for the Southern District of Mississippi, on the first Monday of May next, to answer to Alexander G. McNutt, Governor of the State of Mississippi, and the successor of Charles Lynch, who sues for the use of Thomas Leggett, Jr., Samuel Smith, and Smith Lawrence, citizens of the State of New York, and late copartners under the firm and style of Leggett, Smith & Lawrence, of a plea that they render to him the sum of fifteen thousand dollars, which they owe to and unjustly detain from him to his damage fifteen thousand dollars, and that they do file their plea or defence with the Clerk of said Court on or before the meeting of the same, or judgment will be given against them by default; and have then there this writ.

Witness the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, the 20th day of March, A. D. 1839, and of the Independence of the United States the 63d.

[L. S.] WM. BURNS,
Clerk.

Marshal's Return.

Executed on R. J. Bland personally, on 5th April, 1839.

W. M. GWIN, *Marsh.*
per JNO. HUNTER, *D. M.*

And on the same day of suing out the writ aforesaid, the plaintiff, by his attorney aforesaid, filed his declaration herein, which is in the words and figures following, to wit:—

UNITED STATES OF AMERICA,
Southern District of Mississippi.

Ninth Judicial Circuit.

UNITED STATES CIRCUIT COURT, May Term, 1839.

Richard J. Bland, Benjamin G. Humphreys, and John Grissom,

citizens of the State of Mississippi, were summoned to answer Alexander G. McNutt, Governor of the State of Mississippi, and the successor of Charles Lynch, who sues for the use of Thomas Leggett, Jr., Samuel Smith, and Smith Lawrence, citizens of the State of New York, and late co-partners in trade under the name and style of Leggett, Smith & Lawrence, of a plea that they render to him the sum of fifteen thousand dollars, which they owe to and unjustly detain from him.

For that whereas, the said defendants, by the names of Richard J. Bland, Benj. G. Humphreys, and John Grissom, heretofore, to wit, on the 10th day of November, in the year 1837, by their writing obligatory, sealed with their seals, and now here shown to the Court, bearing date the day and year aforesaid, acknowledged themselves to be held and firmly bound unto Charles Lynch, Governor of the State of Mississippi and his successors in office, in the sum of fifteen thousand dollars, above demanded to be paid to said plaintiff or his successors in office, which bond contains the following conditions, to wit: The conditions of this obligation are such that whereas the above bound Richard J. Bland was duly elected by the qualified electors of the county of Claiborne sheriff of said county, at an election held therein on the sixth and seventh days of November, A. D. 1837, for the term of two years, as prescribed in the constitution; now, therefore, if the said Richard J. Bland shall well and truly collect all fines, forfeitures, and amercements accruing to or being due to the State or any county within the same, which may lawfully come into his hands for collection against any person or persons residing in or being found within the county of which he is sheriff, and shall punctually pay all such fines, forfeitures, amercements so collected to the person or persons entitled by law to receive the same, and shall also well and truly execute and due return make of all process and precepts to him lawfully directed, and pay and satisfy all sums of money by him received by virtue of any such process or precepts to the person or persons to whom the same are due, his, her, or their lawful attorney, executor, administrator, or assigns, and in all things shall truly and faithfully execute and perform the duties of the said office of sheriff during the time of his continuance therein, then this obligation to be void, otherwise to remain in full force and virtue.

And the said plaintiffs aver that the said above bound Richard Bland, sheriff as aforesaid, hath not well and truly kept and performed the conditions of the above bond, and hath not truly and faithfully executed and performed the said office of sheriff in this, that the said plaintiff avers that the said Leggett, Smith & Lawrence, by their attorney, prosecuted their certain suit in the United States Circuit Court for the District of Mississippi, held at the town of Jackson and said State of Mississippi at the May term of said Court for the year 1837, against George W. McNider, when, by the judgment and consideration of said Court the said Leggett, Smith &

Lawrence recovered of said defendants, on the 17th day of November, in the year 1837, the sum of thirty-nine hundred and ten $\frac{78}{100}$ dollars for their damages and the costs of suit in their behalf expended; and that on the 30th day of December, in the year 1837, a writ of *capias ad satisfaciendum* was sued out by said Leggett, Smith & Lawrence of said Court against the body of said George W. McNider, directed to the Marshal of the State of Mississippi, and which was placed in the hands of the said Marshal of the State of Mississippi for execution; and the Marshal of the State aforesaid did, whilst the said writ was in full force and virtue, by virtue of said writ delivered to him, take into his custody the body of said Geo. W. McNider, and did, after the said taking, turn over and deliver the same, at the said county of Claiborne, for safe keeping, to Richard J. Bland, the defendant, one of the obligors in said bond, who was then and there the acting sheriff in and for the county of Claiborne and State of Mississippi; and the plaintiffs allege that said Richard J. Bland then and there, whilst said writ was in full force and virtue, did, in violation of his duty as sheriff, discharge, release, and set at liberty said prisoner, to wit, the said George W. McNider, not by force or operation of law, or in pursuance of any power or process emanating therefrom, but in violation thereof, and without the license or consent of said plaintiffs, Leggett, Smith & Lawrence, or of their lawful agent or attorney, and against their will, they, the said plaintiffs, being wholly unsatisfied and unpaid, and said judgment aforesaid being then and there in full force and effect, and not in any respect reversed or annulled, paid off or discharged, whereby an action has accrued to said plaintiffs to demand the sum of fifteen thousand dollars from said defendants.

Yet the said defendants, though often requested, have not as yet paid the said sum of money above demanded, or any part thereof, to said plaintiffs, but to do so have wholly failed and refused, and still refuse so to do, to the damage of said plaintiffs fifteen thousand dollars, and therefore they sue.

NORCOM & MASON,
Pl'ff's Att'y.

Copy of Bond sued on.

Know all men by these presents that we, Richard J. Bland, Benjamin G. Humphreys, and John Grissom, of the county of Claiborne and State of Mississippi, are held and firmly bound by these presents unto Charles Lynch, Governor of the State of Mississippi for the time being, and his successors in office, in the sum of fifteen thousand dollars, lawful money of the United States, to be paid to the said Charles Lynch, Governor of the State of Mississippi, and to his successor in office; and for the faithful payment thereof, well and truly to be made, we and each of us bind ourselves, our and each of our heirs, executors, and administrators jointly and seve-

rally, firmly by these presents, sealed with our seals, and dated this tenth day of November, A. D. 1837.

The condition of the above obligation is such, that whereas the above bound Richard J. Bland was duly elected by the qualified electors of the county of Claiborne sheriff of said county, at an election held therein on the sixth and seventh days of November, A. D. 1837, for the term of two years, as prescribed in the constitution. Now, therefore, if the said Richard J. Bland shall well and truly collect all fines, forfeitures, and amercements, accruing to or being due to the State, or any county within the same, which may lawfully come into his hands for collection against any person or persons residing or being found within the county of which he is sheriff, and shall punctually pay all such fines, forfeitures, and amercements so collected, to the person or persons entitled by law to receive the same, and shall also well and truly execute and due return make of all process and precepts to him lawfully directed, and pay and satisfy all sums of money by him received by virtue of such process or precepts to the person or persons to whom the same are due, his, her, or their lawful attorney, executors, administrators, or assigns, and in all things shall truly and faithfully execute and perform the duties of the said office of sheriff during the time of his continuance therein, then this obligation to be void, otherwise to be and remain in full force and virtue.

R. J. BLAND, [SEAL.]
BENJ. G. HUMPHREYS, [SEAL.]
JOHN GRISSOM, [SEAL.]

THE STATE OF MISSISSIPPI,
Claiborne County, ss.

I, Nichols McDougall, Esq., Judge of Probates in and for said county, do hereby approve of the within and foregoing bond and securities thereto.

Given under my hand and seal this 15th day of November, A. D. 1837.

N. McDOUGALL, [SEAL.]
Judge Probates.

THE STATE OF MISSISSIPPI,
Claiborne County.

I, Richard J. Bland, do solemnly swear that I will support the Constitution of the United States, and the Constitution of the State of Mississippi, so long as I remain a citizen thereof, and will in all respects execute and perform the duties of the office of sheriff of Claiborne County to the best of my skill and abilities, so help me God.

R. J. BLAND.

Sworn to and subscribed before me, this 15th day of November, A. D. 1837.

N. McDOUGALL,
Judge Prob.

THE STATE OF MISSISSIPPI,
Claiborne County, ss.

I, John Witherall, Clerk of the Probate Court in and for said county, do hereby certify that the foregoing transcript contains a true copy of the bond given by R. J. Bland, Esq., sheriff of the said county of Claiborne, as the same appears of record in my office.

Given under my hand and seal of office, this the 8th day of February, A. D. 1839.

JOHN WITHERALL, *Cl'k.*
By J. L. WERTEN, *D. C.*

And afterwards, to wit, on the 20th day of June, in the year of our Lord 1839, a writ of alias summons was issued from the clerk's office of the court aforesaid, which, with the endorsement and return thereon, is in the words and figures following, to wit:

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss.

The President of the United States, to the Marshal of the Southern District of Mississippi, greeting:

We command you, as before we commanded you, without delay to summon Richard J. Bland, Benjamin G. Humphreys, and John Grissom, citizens of the State of Mississippi, that they be and appear at the Circuit Court of the United States, to be held at the town of Jackson, in and for the Southern District of Mississippi, on the first Monday of November next, to answer to Alexander G. McNutt, Governor of the State of Mississippi, and the successor of Charles Lynch, who sues for the use of Thomas Leggett, Jr., Samuel Smith, and Smith Lawrence, citizens of the State of Ne York, and late copartners under the firm of Leggett, Smith & Lawrence, of a plea that they render to him the sum of fifteen thousand dollars, which they owe to and unjustly detain from him to his damage, fifteen thousand dollars, and that they do file their plea or defence with the clerk of said court, on or before the meeting of the same, or judgment will be given against them by default—And have then there this writ.

Witness, the Honorable Roger B. Taney, Chief Justice [L. S.] of the Supreme Court of the United States, the 20th day of June, A. D. 1839, and of the Independence of the United States the 63d.

WM. BURNS, *Cl'k.*

To be executed on Humphreys & Grissom only.

Marshal's Return.

Executed this writ of B. G. Humphreys personally on the 14th day of October, 1839. J. Grissom not found in my district.

W. M. GWIN, *Marshal.*

per JOHN HUNTER, *D. M.*

And the said defendants, Richard J. Bland, and Benjamin G. Humphreys, come and defend the wrong and injury when and where, &c., and for plea say the plaintiffs, their action aforesaid, ought not to have and maintain, &c., because they say by an act of the Legislature of the State of Mississippi, passed June 22d, 1822, entitled An Act to reduce into one the several acts concerning executors, and for the relief of insolvent debtors, it is among other things provided, that when an insolvent person shall not be able to satisfy or pay his ordinary prison fee, if the creditor, upon notice given him or her, his or her attorney or agent, shall refuse to give security to the sheriff or jailor for the payment of such prison fees, or shall fail to pay the same when demanded, the sheriff or jailor shall discharge such debtor out of prison. And it is further provided by said act, that "Whereas it is unreasonable sheriffs should be obliged to go out of their counties to give notice to creditors at whose suit any person may be in the custody of such sheriff, that where any execution shall be delivered to the sheriff of any other county than that where any creditor resides, such creditor shall name some person in the county where the execution is to be levied to be his, her or their agent, for the particular purpose for giving to and receiving from the sheriff any notices which may be necessary relating thereto, and if any creditor shall fail to appoint such agent the sheriff shall not be obliged to give notice previous to the discharge of such prisoner, for want of security for his prison fees, but such prisoner shall be discharged without any notice to be given to the creditor so failing.

And these defendants aver that, at the time the said George W. McNider was committed to the custody of the said sheriff of Claiborne County, as in plaintiffs' declaration is stated, and ever since until said prisoner was discharged, the said Leggett, Smith & Lawrence, were not residents of the said County of Claiborne, nor did they appoint any agent or attorney to receive notice, as aforesaid, within said county, and the said George W. McNider was then and there to wit, at Claiborne, at the time of said commitment, insolvent, and unable to satisfy or pay his ordinary prison fees, and the said Leggett, Smith & Lawrence, then and there wholly failed, and refused to give security to the said sheriff of Claiborne County aforesaid, or to the jailer thereof, for the payment of the said prison fees, and therefore the said sheriff, defendant as aforesaid, lawfully discharged the said George W. McNider out of prison as aforesaid,

all of which these defendants are ready to verify, wherefore they pray judgment, &c., whether, &c.

CHAPLAIN, WINCHESTER & BLACK,
Att'ys for D'f'ts.

And for further plea, defendants say *actio non*, because they say that the said George W. McNider, after his said commitment to the custody of the said sheriff of Claiborne County, to wit, on at was regularly and according to the provisions of the acts of the legislature of the State of Mississippi, for the relief of insolvent debtors brought before Nicholas McDougall, a Judge of Probate duly commissioned in and for the said County of Claiborne, and then and there having complied with all the requisitions of the said acts, was by the order of the said Judge of Probate, and by warrant from the said Judge of Probate, then and there lawfully discharged from the said custody of the said sheriff, as appears by the record thereof now here in court produced, all of which these defendants are ready to verify. Wherefore they pray judgment whether, &c.

CHAPLAIN, WINCHESTER & BLACK,
Atty's for D'f'ts.

And said plaintiffs for replication to the plea by said defendants first above pleaded, say that at the time of the discharge of said prisoner, George W. McNider, these plaintiffs had an agent residing within the district of Mississippi, to wit, in the County of Warren, the State aforesaid, this attorney of record and known to said McNider, and that no application was made whatever to these plaintiffs, or their agent for the payment of jail fees, or to give security for the same, nor was any notice whatever given either to these plaintiffs or their agent or attorney, of an intention to discharge, or of an application of said prisoner to be discharged, either for that cause or any other from the custody and safe keeping of said defendants Bland, and this they are ready to verify, &c., wherefore they pray judgment, &c.

NORCOM & MASON,
Pl't'ffs' Att'y.

And said plaintiffs for replication to the plea secondly above pleaded by said defendants, say that the prisoner aforesaid, George W. McNider, was by virtue of process legally issuing from the Circuit Court of the United States for the District of Mississippi, taken into custody by the Marshal of said district, and by him was delivered to the said defendant Bland for safe keeping, who was then acting as sheriff, and was sheriff of the county in which said prisoner was taken, and said plaintiff say said McNider was not discharged from said custody aforesaid by virtue of any process emanating from any court of the United States, or judge thereof, nor by virtue of any law of the United States, but these plaintiffs say that said

prisoner was discharged contrary to the provisions of the several acts of Congress, made and provided, prescribing the mode and manner of discharging prisoners confined under process from the courts of the United States; and said plaintiffs say that neither they nor their agent and attorney of record residing within the District of Mississippi were served with motion of such discharge or intended application by the prisoner to be discharged from custody. And therefore they say said George W. McNider was not duly and legally discharged from confinement, as aforesaid; and this they are ready to verify, wherefore they pray judgment, &c.

NORCOM & MASON,
Pl't'ff's Att'y.

And the said Bland and Humphreys, by their attorneys Chaplain, Winchester and Black, come and defend, &c., and for replication to the plaintiffs' replication to defendants' first plea, say that plaintiffs, their action, &c., ought not to have, and maintain, &c., because they say the matters and things in said replication contained, are not good and sufficient in law, in manner and form, as in said replication set forth, to entitle the plaintiffs to maintain their said action against them; and this they are ready to verify, wherefore they pray judgment, &c., and for special answer of demurrer they set down the following:—

1st. Said replication neither admits or denies the plea of the defendants first above pleaded.

2d. Said replication is single.

3d. Said replication does not aver any matter good as an answer to defendants' said first plea.

CHAPLAIN, WINCHESTER & BLACK,
Def'ts' Att'ys.

And the said defendants, for rejoinder to plaintiffs' replication to the second plea of defendants above pleaded, say *actio non*, because they say the matters and things in said replication contained in manner and form as therein set forth are not good and sufficient in law to entitle plaintiffs to maintain their said action, &c.; and this they are ready to verify. Wherefore they pray judgment, &c. And for special causes of demurrer to said second replication, defendants set down the following.

1st. Said replication contains no answer to defendants' second plea.

2d. Said replication is argumentative.

3d. Said replication is informal, imperfect, and otherwise insufficient.

CHAPLAIN, WINCHESTER, and BLACK,
Def'ts' Att'ys.

And the said plaintiff by his attorney comes, and defend and says,

that the plaintiffs' replication to defendants' first plea, and the matters and things therein contained, in manner and form as the same are set forth and pleaded, *and set forth*, are sufficient in law for him, the said plaintiff, to have and maintain his said action against him, the said defendant, and this he is ready to verify as the Court here directs and award.

Wherefore, as the said defendants have not answered the said replication, nor in any manner denied the same, the said plaintiffs pray judgment, and his debt and damages assessed.

NORCOM & MASON,
Pl'ffs' Att'ys.

And afterwards, to wit, at the said November Term of the Court aforesaid, to wit, on the twenty-sixth day of November, in the year of our Lord one thousand eight hundred and thirty-nine, came the parties aforesaid, by their respective attorneys, and on motion of the said plaintiff by his attorney, it is ordered that this cause be discontinued as to the defendant, John Grissom, and thereupon the matters of law arising upon the demurrer of the defendants to the plaintiffs' replication to the first plea, and also the plaintiffs' demurrer to the second plea of the said defendants being fully argued, it is ordered that said demurrer be sustained.

Therefore it is considered by the Court that the plaintiffs take nothing by his bill, and the defendants go thereof without day and recover against the said Leggett, Smith, and Lawrence, their costs by them about their defence in this behalf expended.

UNITED STATES OF AMERICA,
Southern District of Mississippi.

Circuit Court U. S.

I, William H. Brown, Clerk of the said Circuit Court, do hereby certify, that the foregoing thirteen pages, and what is contained on this page, contain a full, true, and complete transcript of the record of the judgment in the case therein named, as the same now remains of record in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court at Jackson, this 30th day of April, A. D. 1844.

[L. S.] W. H. BROWN,
Clerk.

Per CHS. H. ROGERS,
D. C.

Copy of Exhibit A.

THE STATE OF MISSISSIPPI,
Claiborne County.

Pleas before the Honorable George Coalter, Judge of the First Judicial District of the State of Mississippi, at a Circuit Court begun and held at the court house in and for the county of Claiborne, and State aforesaid, on the fourth Monday and 25th day of May, A. D. eighteen hundred and forty.

THE PRESIDENT, DIRECTORS, and COMPANY of the PLANTERS' BANK of the State of Mississippi, Plaintiffs,

vs.

RICHARD J. BLAND, Sheriff of Claiborne County, BENJAMIN G. HUMPHREYS, and JOHN GRISSOM, his securities, Defendants.

Be it remembered, that at the May Term of our said Court, A. D. eighteen hundred and forty, the plaintiffs in the above stated case by attorney, entered upon the motion docket of our said Court their certain motion which is in the words and figures following, to wit:—

THE PRESIDENT, DIRECTORS, and COMPANY of the PLANTERS' BANK of the State of Mississippi,

vs.

RICHARD J. BLAND, Sheriff of Claiborne County, BENJAMIN G. HUMPHREYS, and JOHN GRISSOM, his securities.

Motion for judgment against Richard J. Bland who was sheriff of Claiborne County, and against Benjamin G. Humphreys, and John Grissom, his securities, for the amount of the execution of the said President, Directors, and Company of the Planters' Bank of the State of Mississippi, against Passmore Hoopes, Joseph H. Moore, and John M. Carpenter, issued 12th December, A. D. 1838, and returnable to the May Term of the Circuit Court of the said county to be holden in the year of our Lord 1839, directed and delivered to the said Bland as sheriff of said county, commanding him to make of the goods and chattels, lands, and tenements of the said Hoopes, Moore, and Carpenter, the sum of ten thousand five hundred and twenty-four dollars and forty-four cents, with interest at the rate of eight per cent. per annum thereof, from the fourth day of December, A. D. 1838, until paid, together with the sum of twenty-four dollars, costs of suit—this motion is for judgment for the amount of said execution with five per cent. damages on said amount, and interest at the rate of eight per cent. per annum until paid, and for the reason that the said Bland, sheriff as aforesaid, failed to return the said execution on the return day thereof.

JAMES H. MAURY,
Attorney for the Motion.

And on the twentieth day of May, A. D. eighteen hundred and

forty, the following entry appears upon the minutes of our said Court, to wit:—

THE PRESIDENT, DIRECTORS AND COMPANY OF THE PLANTERS' BANK OF THE STATE OF MISSISSIPPI. [P. On motion. $11.775.]
vs.
RICHARD J. BLAND, Sheriff of Claiborne County, BENJAMIN G. HUMPHREYS, and JOHN GRISSOM, his securities.

Motion for judgment against Richard J. Bland, who was sheriff of Claiborne County, and against Benjamin G. Humphreys and John Grissom, his securities, for the amount of the execution of the said President, Directors, and Company of the Planters' Bank of the State of Mississippi, against Passmore Hoopes, Joseph H. Moore, and John M. Carpenter, issued 12th December, A. D. 1838, and returnable to the May term of the Circuit Court of said county, to be holden in the year of our Lord eighteen hundred and thirty-nine, directed and delivered to the said Bland as sheriff of said county, commanding him to make of the goods and chattels, lands and tenements of the said Hoopes, Moore, and Carpenter, the sum of ten thousand five hundred and twenty-four dollars and forty-four cents, with interest at the rate of eight per cent. per annum thereon, from the 4th day of December, A. D. 1838, until paid, together with the sum of twenty-four dollars, costs of suit. This motion is for judgment for the amount of said execution, with five per cent. damages on said amount, and interest at the rate of eight per cent. per annum until paid, and for the reason that the said Bland, sheriff as aforesaid, failed to return the said execution on the return day thereof.

JAMES H. MAURY,
Attorney for the Motion.

Now on this day came the parties by their attorneys, and it being proved to the satisfaction of the Court that the said President, Directors, and Company of the Planters' Bank of the State of Mississippi, recovered a judgment against Passmore Hoopes, Joseph H. Moore, and John M. Carpenter, for the sum of ten thousand five hundred and twenty-four dollars and forty-four cents, and costs of suit, &c., at the November term of this Court, in the year of our Lord eighteen hundred and thirty-eight, and on the eighth day of December in said year, and that they regularly send forth a writ of *fieri facias* on said judgment, directed to the sheriff of the County of Claiborne, commanding him that of the goods and chattels, lands and tenements of the said Hoopes, Moore, & Carpenter, he should cause to be made the sum of ten thousand five hundred and twenty-four dollars and forty-four cents, which the said plaintiff had recovered against them, with interest on the said sum, at eight per centum per annum, from the fourth day of December, one thousand eight hundred and

thirty-eight, until paid; also the sum of twenty-four dollars, their costs in that behalf expended, and that he should have said moneys before the judge of said Court on the fourth Monday of November then next ensuing, to render to the said plaintiffs for their damages and costs aforesaid, and that he should have then there the said writ. And it being proved to the satisfaction of the Court that the said writ was delivered to the said Richard J. Bland, on the first day of January, in the year of our Lord eighteen hundred and thirty-nine, and that he the said Bland was the sheriff of the said County of Claiborne, and that the said Benjamin G. Humphreys and John Grissom were the securities of said Richard J. Bland, in his official bond, for the sum of fifteen thousand dollars, as sheriff of said county; and it being proved that the said Bland failed to return the said writ of *fieri facias* on the return day thereof; and it being furthermore proved that the said defendants have been duly notified of this motion, that is, the said Richard J. Bland, sheriff, and Benjamin C. Humphreys and John Grissom, his securities on his official bond. It is therefore considered and adjudged by the Court here, that the said plaintiffs recover of the said Richard J. Bland, sheriff as aforesaid, and the said Benjamin G. Humphreys and John Grissom, his securities, the sum of eleven thousand seven hundred and seventy-five dollars, being the aggregate amount of the said sum of ten thousand five hundred and twenty-four dollars and forty-four cents, with eight per cent. thereon from the date of the aforesaid recovery to the date hereof, together with interest, at the rate of eight per cent. per annum on the said sum of eleven thousand seven hundred and seventy-five dollars, from the date hereof till paid; and also the further sum of five hundred and twenty-six dollars and twenty-two cents, being damages on the aforesaid sum of ten thousand five hundred and twenty-four dollars and forty-four cents, at the rate of five per cent.; and also the sum of twenty-four dollars, the costs taxed on the said writ of *fieri facias*, as well as the costs of this motion, and may have execution for the same, &c.

And afterwards, to wit, on the 6th day of July, A. D. eighteen hundred and forty, the Clerk of our said Court issued a writ of *fieri facias*, directed to the coroner of Claiborne County, which, with the endorsements and returns thereon, is in the words and figures following, to wit:—

The State of Mississippi to the Coroner of Claiborne County, greeting:—

We command you, that of the goods and chattels, lands and tenements of Richard J. Bland, Benjamin G. Humphreys, and John Grissom, late of your county, you cause to be made the sum of eleven thousand seven hundred and seventy-five dollars, which the President, Directors, and Company of the Planters' Bank of the State of Mississippi, lately in our Circuit Court of said county, have recovered against the said Richard J. Bland, as Sheriff of said county, and the said Benjamin G. Humphreys and John Grissom, as his securities in

his official bond, by reason of the failure of the said Bland as sheriff as aforesaid, to return a writ of *fieri facias* in favor of the said Planters' Bank of the State of Mississippi, against Passmore Hoopes, Joseph H. Moore, and John M. Carpenter, to our Circuit Court, on the return day thereof, also the sum of *five hundred and twenty-six dollars and twenty-two cents*, damages, at the rate of five per centum on the sum of *ten thousand five hundred and twenty-five dollars and forty-four cents*, the amount of the original judgment on which said writ of *fieri facias* issued, with interest on the said sum of *eleven thousand seven hundred and seventy-five dollars*, at eight per centum per annum, from the (30th) thirtieth day of May, 1840, until paid; also, the sum of twenty-four dollars costs taxed in said writ; also the further sum of five dollars and fifty cents, for costs by them about their motion in that behalf expended, whereof the said Bland, Humphreys, and Grissom are convicted, as appears to us of record, and that you have said moneys before the Judge of our Circuit Court, on the fourth Monday of November next, to render to the said President, Directors, and Company of the Planters' Bank of the State of Mississippi, for their damages and costs aforesaid, and have then there this writ.

Witness the Honorable George Coalter, Judge of the
[L. S.] First Judicial District of said State, the fourth Monday of May, one thousand eight hundred and forty.

Issued the 6th day of July, 1840.

ALEX. DAVIS, *Cl'k.*

(25). To November Term, 1844. Planters' Bank *vs.* Richard J. Bland, Benjamin G. Humphreys, John Grissom. *Fi. fa.* No security of any kind is to be taken.

ALEX. DAVIS, *Cl'k*,
A. INGRAM,
Coroner C. C.

Rec'd July 16th, 1840.

Levied on a close-bodied carriage, two horses and harness; also the following negroes as the property of Benjamin G. Humphreys, viz:—

George, Ibby, Caroline, Temply, George, Sam, Ocean, Irwin, Fanny, Quash, Eliza, Chaning, Americus, Sarah, Milkah, Minton, Milkah, Hannah, Joseph, Bob, Manuel, Willis, Douglas, Betsey, Allen, Matilda, William, Julian, Edmund, Harriet, Obeasy, Fred, Peggy, Leathy, Baley, Perry, Eda, Henry, Ben, Derry, Simon, Patsey, Solomon, Ritler, Vene, Lucitus, Sampson, Angeline, Christian, Louisa, John, Roinca, Rachel, Nancy, Willoughby, Lucy, Baley, B. Sally, Eveline, Toney, Tommey, Nancy, Eugene, Leonora, Mary, Minta, Marion, Sally, Jerry, William, Emma, Betsey, Caroline, Missouri, Lyons, Sandy.

All levied on as above this 1st day of August, 1840.

A. INGRAM,
Coroner C. C.

Also levied on all the right, title, claim, and interest of the defendant Benjamin G. Humphreys, of, in and to the undivided one-third of the property known as Stamps' Row (formerly Loring's Row), on Main Street, in Port Gibson, this 4th day of August, 1840.

A. INGRAM,
Coroner C. C.
By A. K. SHEIFER,
Dep'y C. C. C.

Same levy and same real estate as number 24th.

A. INGRAM,
Coroner C. C.
By A. K. SHEIFER,
D'y C. C. C.

Levied on all the right, title, claim and interest of the defendant, Richard J. Bland, in and to the following described tracts of land, to wit: Fractional section No. 12, in Township No. 10, of Range No. 3 east, containing five hundred and eighty-five acres. Also, the southeast quarter of section No. 11, in Township No. 10, Range No. 3 east of the Basis Meridian of lands directed to be sold at Washington (Mississippi), containing about one hundred and fifty acres $\frac{3}{100}$, making in all seven hundred and thirty five-acres $\frac{3}{100}$, being a part of the estate of Willis Beazeale, deceased.

A. INGRAM,
Sept. 12, 1840. *Coroner C. C.*

Same levy real estate as on ex'on No. 24, of same date.

A. INGRAM,
Coroner C. C.
By A. K. SHEIFER,
De'y C. C.

Same levy as on ex'on No. 26 and 32.

Pursuant to an advertisement in the Port Gibson Correspondent for the time required by law, I did proceed this day to sell the following negro slaves, viz:—

George, Ibby, Tempy,	Being lot No. 1 for $1,450 00	Quash, Eliza, Chany,	No. 6,	$380 00
George, Sam, Ocean,		Perry, Edy, Henry,	No. 7,	$310 00
Irwin, Fanny,		Ben, Denny, John,	No. 8,	$310 00

Fed, Peggy, Leathy, Baley,	No. 14,	$210 00
1 close carriage, 2 horses and gear,	No. 15.	$260 00
		$470 00
	Bro't up,	4,535 00
	" "	2,945 00
	Am't of sales,	$7,950 00

Am't brot' over,		$1,450 00	Am't bro't over,		$1,000 00
Edmond, Harriet, Creasy, Caroline, Missouri,	Lot No. 2,	$750 00	Sally, Jerry, William, Emma, Betsey,	Lot No. 9,	$520 00
Tommy, Nancy, Eugene, Leonard, Sandy, Mary, Marion, Minta,	Lot. No. 3,	$760 00	Cyrus, Romeo, Rachael, Nancy, Willowby, Lucy, Baley, Simon,	Lot No. 10,	$470 00
Americus, Sarah, Milkah,	Lot No. 4,	$575 00	Solomon, Patsey, Baley,	No. 11,	$260 00
William, Julian, Minter, Milkah, Hannah, Joseph, Bob,			Ritter, Vene, Lucilius, Sampson, Angeline, Christian, Louisa,	Lot No. 12,	$510 00
Manuel, Willis, Douglas, Betsey, Allen, Matilda,	Lot No. 5,	$1,000 00	Sally, Eveline, Toney,	No. 13,	$185 00
		$4,535 00	Am't carried up,		$2,945 00

The negroes here named were this day offered according to law,

and the several lots were struck off to David G. Humphreys, for the sums opposite to each; also the carriage, horses, and gear; he, the said Humphreys, being the highest and last bidder for each and every lot, amounting together to the sum of seven thousand nine hundred and fifty dollars.

A. INGRAM,
Coroner C. C.
By A. R. SHEIFER,
De'y C. C. C.

Am't of sales this day, negroes, horses, and carriage,		$7,950 00
Applied to Ex'on No. 28 this sum to satisfy	$1,017 26	
Applied to Ex'on No. 29 this sum to satisfy	387 21	
Applied to Ex'on No. 30 this sum to satisfy	901 97	
Applied to Ex'on No. 31 this sum to satisfy	2,792 48	
Am't applied to above being in favor of Grand Gulf Bank,		$5,098 92
Balance of sales remaining,		$2,851 08
Applied to Ex'on No. 27 this sum to satisfy	$1,313 10	
Applied to Ex'on this sum being balance of this sale,	1,537 98	
		2,851 08
These two last executions are in favor of the Planters' Bank,		$0,000 00

Applied for, A. INGRAM,
Coroner C. C.
By A. K. SHEIFER,
De'y C. C.

Rec'd 23d Sept. 1840, of A. Ingram, Coroner, twelve thousand and three hundred and eighty $\frac{85}{100}$ dollars of the plaintiff's recovery and interest in this case,

J. H. MAURY.

Rec'd all costs up to this time, two hundred thirty-nine and $\frac{75}{100}$ dollars.

A. INGRAM,
Coroner, C. C.

Pl'tff's money satisfied except two hundred six and $\frac{85}{100}$ dollars, 23d Sept. 1840.

A. INGRAM,
Coroner C. C.

THE STATE OF MISSISSIPPI,
Claiborne County, ss.

I, Dan. McDougall, Clerk of the Circuit Court in and for the County of Claiborne, and State aforesaid, hereby certify that the foregoing eight pages and this page contain a true and correct copy of the record, process and papers in the foregoing stated case as appears of record and on file in my office.

Given under my hand and seal of office, this first day of November, A.D. eighteen hundred and forty-four.

[L. S.] DAN. McDOUGALL,
Clerk.

THE STATE OF MISSISSIPPI,
Claiborne County, ss.

I, George Coalter, Judge of the First Judicial District of said State, do hereby certify that Dan. McDougall is the duly elected and qualified Clerk of the Circuit Court in and for said county and State, and that his said attestation is in due form of law.

Given under my hand this first day of November, A.D. eighteen hundred and forty-four.

GEORGE COALTER.

Copy of Exhibit B.

THE STATE OF MISSISSIPPI,
Claiborne County, ss.

Pleas before the Honorable George Coalter, Judge of the First Judicial District of the State of Mississippi, at a Circuit Court begun and held at the Court House in and for the County of Claiborne and State aforesaid, on the fourth Monday and twenty-fifth day of May, A.D. 1840.

THE PRESIDENT, DIRECTORS AND COMPANY OF THE PLANTERS' BANK OF THE STATE OF MISSISSIPPI, Plaintiffs,
vs.
RICHARD J. BLAND, Sheriff of Claiborne County, BENJAMIN G. HUMPHREYS and JOHN GRISSOM, his securities, Defendants.

Be it remembered, that at the May Term of our said Court, A.D. eighteen hundred and forty, the plaintiffs in the above stated case, by attorney, entered upon the motion docket of our said Court their certain motion, which is in the words and figures following, to wit:

THE PRESIDENT, DIRECTORS AND COMPANY OF THE PLANTERS' BANK OF THE STATE OF MISSISSIPPI,
($2674.75) 297 *vs.*
RICHARD J. BLAND, Sheriff of Claiborne County, BENJAMIN G. HUMPHREYS and JOHN GRISSOM, his securities, Defendants.

Motion for judgment against Richard J. Bland, who was sheriff

of the County of Claiborne, State of Mississippi, and against Benjamin G. Humphreys and John Grissom, his securities, for the amount of the execution of the President, Directors and Company of the Planters' Bank of the State of Mississippi, against Robert W. Campbell, Joseph O. Pierson and Joseph H. Moore, issued the 21st January, 1839, and returnable to the May Term of the Circuit Court of said county, holden in the year of our Lord 1839, directed and delivered to the said Bland, as sheriff of said county, commanding him that of the goods and chattels, lands and tenements of the defendants therein mentioned, he should cause to be made the sum of thirty-seven hundred and eighteen dollars and seventy-eight cents, with interest on $3702.66, from the 29th day of November, A.D. 1836, until paid, together with the sum of thirty-nine dollars and sixty-four cents, clerk's and sheriff's fees. This motion is for judgment against the said Bland, Humphreys and Grissom for the amount due on said execution, with five per cent. damages on said amount, and interest at the rate of eight per cent. per annum till paid, for the reason that said Bland failed to return said execution on the return day.

MAURY & SAYER,
for Motion.

Now on this day came the parties, and it being proven to the satisfaction of the Court that the said President, Directors and Company of the Planters' Bank of the State of Mississippi sued for their writ of *fieri facias*, directed to the sheriff of Claiborne county, commanding him that of the goods and chattels, lands and tenements of Robert W. Campbell, Joseph O. Pierson and Joseph H. Moore, he should make the sum of three thousand seven hundred and eighteen dollars and seventy-eight cents, with interest on ($3702.66) thirty-seven hundred and two dollars and sixty-six cents, from the 29th day of November, 1836, until paid, and also for the further sum of thirty-nine dollars and sixty-four cents costs, and that he should have said sums of money before the Judge of this Court on the fourth Monday of May next after the issuance of said writ, to render, &c., and that he should have then and there the said writ. And it being proven that the said writ of *fieri facias* was delivered to the said Richard J. Bland, as sheriff of said county, and that the said Benjamin G. Humphreys was one of his securities on his official bond for the sum of fifteen thousand dollars, and it being proven that the said Bland failed to return the said writ of *fieri facias* on the return day thereof, and that the said Bland and Humphreys have been duly notified of this motion, and it being shown on part of the said defendants that a former recovery had been had against them by virtue of their liability on said bond to the amount of $12,325.22, twelve thousand three hundred and twenty-five dollars and twenty-two cents, leaving a balance of ($2674.75) two thousand six hundred and seventy-four dollars and seventy-five cents of said bond outstanding and unextinguished, it is therefore adjudged by the Court that the President, Directors and Company of the Planters' Bank of

the State of Mississippi recover of the said Richard J. Bland and Benjamin G. Humphreys the said sum of twenty-six hundred and twenty-four dollars and seventy-five cents, the amount of said balance so running on said bond, and that they have their execution to collect the same; and this motion as to the said Grissom is discontinued, he not having been served with notice.

And, afterwards, to wit, on the third day of July, A. D. 1840, the clerk of our said court issued a writ of *fieri facias*, directed to the coroner of our county aforesaid, in the words and figures following, to wit:—

THE STATE OF MISSISSIPPI,
To the Coroner of Claiborne County, Greeting:

We command you, that of the goods and chattels, lands and tenements of Richard J. Bland and Benjamin G. Humphreys, late of your county, you cause to be made the sum of twenty-six hundred and seventy-four dollars and seventy-five cents, which the President, Directors, and Company of the Planters' Bank of the State of Mississippi, lately in our Circuit Court of said county have recovered against the said Richard J. Bland as sheriff of said county, and the said Benjamin G. Humphreys as one of his securities in his official bond by reason of the failure of said Bland as sheriff as aforesaid to return a writ of *fieri facias* in favor of the said President, Directors and Company of the Planters' Bank of the State of Mississippi, against Robert W. Campbell, Joseph O. Pierson and Joseph H. Moore, to our Circuit Court on the return day thereof, the said sum being the amount for which they are liable on said bond after deducting the amount of a former recovery on the same for *twelve thousand three hundred and twenty-five dollars and twenty-two cents*, with interest on the said sum of twenty-six hundred and seventy-five dollars and seventy-five cents, at eight per centum per annum from the 10th day of June, 1840, until paid, and the sum of five dollars and fifty cents for costs by them about their suit in that behalf expended, whereof the said Bland and Humphreys are convicted as appears to us of record, and that you have said moneys before the Judge of our Circuit Court on the fourth Monday of November next to render to the said President, Directors and Company of the Planters' Bank of the State of Mississippi for their damages and costs aforesaid, and have then there this writ.

Witness, the Honorable George Coalter, Judge of the First Judicial District of the said State the fourth Monday of May, one thousand eight hundred and forty.

Issued the third day of July, 1840.

ALEX. DAVIS,
Clerk.

Received July 16th, 1840.

A. INGRAM,
Coroner, C. C.

Levied on all the right, title, claim, and interest of the defendant Benjamin G. Humphreys, of, in and to the following described tracts, lots, pieces and parcels of land, viz: Lot No. 1, in fractional section No. 45, township 13, range 3 east, containing 116 acres; and west half of northwest fourth of section No. 46, township 13, range 3 east, containing $82\frac{10}{100}$ acres; east half of southwest fourth of section No. 46, W. $\frac{1}{2}$ of southwest $\frac{1}{4}$ of section 46, township 13, range 3 east, containing $82\frac{10}{100}$ acres; township 13, range 3 east, containing $82\frac{10}{100}$ acres (lots No. 4 and 5, section 59, township 13, range 3 east, and lot No. 4, section 60, township 13, range 3 east), last three lots containing 179 acres; lot No. 2, section 60, township 13, range 3 east, containing 88 acres; lot No. 3, section 45, township 13, range 3 east, containing $96\frac{80}{100}$ acres; and east $\frac{1}{2}$ of the John Anderson grant, containing $329\frac{30}{100}$ acres; also a tract of land known as the Quine tract, containing 160 acres: The above described lands lay adjoining and situate on the waters of Big Black in Claiborne County, containing together twelve hundred and fifty $\frac{40}{100}$ acres (more or less), also the northeast quarter of southeast quarter of section 4, township 12, range 4 east, containing $38\frac{88}{100}$ acres; east $\frac{1}{2}$ of southwest $\frac{1}{4}$ and west $\frac{1}{2}$ of southeast quarter of section No. 3, township 12, range 4 east, containing $156\frac{20}{100}$ acres; east $\frac{1}{2}$ of southwest $\frac{1}{4}$, and west $\frac{1}{2}$ of southeast $\frac{1}{4}$ of section 61, township 13, range 4 east, containing $164\frac{10}{100}$ acres; E. $\frac{1}{2}$ of N. W. $\frac{1}{4}$, and southeast quarter of southeast $\frac{1}{4}$ of section four, township 12, range 4 east, containing $116\frac{64}{100}$ acres; lot No. 3, and west $\frac{1}{2}$ of lot No. 2, section 10, township 12, range 4 east, containing $119\frac{10}{100}$ acres; these last named lands lay adjoining to other on the waters of the North Fork of Bayou Pierre in the aforesaid county, containing together five hundred and ninety-three acres (more or less), also all the right, title, claim and interest of said defendant, of and to the undivided one-third part of the lots and parts of lots and buildings formerly known as Loring's (now Stamp's) row, being that portion of lots two and three, in square nine, beginning at the northwest corner of said lot No. 2, thence with the west boundary of said lots 2 and 3, up Main Street to the southwest corner of lot No. 3, at the junction of Main and Walnut, or Bank Street, thence up on the southern boundary of said lot No. 3 one hundred and twenty-three feet to a post, thence in a northeasterly direction on a line parallel with Main Street one hundred and ninety-six feet to the division line between lots one and two, thence in a westerly direction upon said division line to the place of beginning upon said Main Street, as by reference to the plan of the town of Port Gibson will appear.

August 1st, 1840.

A. INGRAM.
Coroner C. C.

The same levy and same property as in execution No. 25.

A. INGRAM,
Coroner C. C.

August 1, 1840.

See levy on lands and town lots within.

A. K. SHEIFER,
D. C. C. C.,
for A. INGRAM,
Coroner C. C.

Same levy as in No. 26, being plantation stuff, furniture, &c. &c. The property of G. B. Flowers, one of the defendants, made 25th August, 1840.

A. INGRAM,
Coroner C. C.

Same levy as No. 25, being on lands def't R. J. Bland, made 12 September, 1840.

A. INGRAM,
Coroner C. C.

This day, after lawful notice in the Port Gibson Correspondent, was exposed to public sale at the court-house of Claiborne County, town aforesaid, the lands and town lots levied on, with this and other cases against the same defendants, to wit:—

Twelve hundred and fifteen $\frac{40}{100}$ acres, lying on Big Black, in one body, was offered, and struck off to David G. Humphreys, for the sum of six thousand five hundred dollars, he the said Humphreys being the last and highest bidder, at said sum . . .	$6,500 00
Five hundred and ninety-three acres, more or less, lying on the waters of the North Fork of Bayou Pierre, was also offered, and struck off to the said David G. Humphreys, he being the last and highest bidder for the same, at eighteen hundred dollars	1,800 00
The one-third part of the property in town of Port Gibson, known as Loring's or Stamp's Row," was also offered, and struck off to the said David G. Humphreys, at the sum of four thousand five hundred dollars, he the said Humphreys being the last and best bidder	4,500 00
	$12,800 00

This 21 day of September, 1840.

A. INGRAM,
Coroner C. C.

Applied to this case this sum . . . $2,779 98
Applied to ex'on No. 25 . . . 10,020 02
$12,800 00

A. INGRAM,
Coroner C. C.
By A. K. SHAIFER,
D. C. C. C.

Rec'd, 23 September, 1840, of A. Ingram, Coroner, twenty-seven hundred and seventy-nine dollars and fifty-four cents, plaintiff's money in this case.

J. H. MAURY.

THE STATE OF MISSISSIPPI,
Claiborne County, ss.

I, Dan. McDougall, Clerk of the Circuit Court in and for the County of Claiborne, and State aforesaid, do hereby certify that the foregoing seven pages contain a true and correct copy of the record, process, and papers in the foregoing stated case, as appears of record and on file in my office.

[L. S.] Given under my hand and seal of office this second day of November, A. D. eighteen hundred and forty-four.

DAN. McDOUGALL,
Clk.

THE STATE OF MISSISSIPPI,
Claiborne County, ss.

I, George Coalter, Judge of the First Judicial District of said State, do hereby certify that Dan. McDougall is the duly elected and qualified Clerk of the Circuit Court in and for said county and State, and that his said attestation is in due form of law.

Given under my hand this second day of November, A. D. eighteen hundred and forty-four.

GEORGE COALTER.

Copy of Exhibit C.

UNITED STATES CIRCUIT COURT,
Southern District of Miss.

November Term, A. D. 1844.

A. G. McNUTT, use of LEGGETT, SMITH & LAWRENCE,
vs.
R. J. BLAND, B. G. HUMPHREYS & JOHN GRISSOM. } In debt.

And now, at this day, to wit, on the first Monday of November, A. D. 1844, until which day the plea aforesaid was last continued, comes the said defendant, Humphreys, by his attorney, and saith that the said plaintiff ought not further to have and maintain his afore-

said action thereof against him the said Humphreys, because, he saith that after the last continuance of this cause, to wit, after the November term, 1839, of this court, and before this day, to wit, at the May term of the Circuit Court of the County of Claiborne, in the State of Mississippi, A. D. 1840, at a regular term thereof, to wit, at the district aforesaid, on motion in said court for that purpose, the President, Directors and Company of the Planters' Bank of the State of Mississippi, by the consideration and judgment of the said court, recovered against the said defendants Bland, Humphreys and Grissom, the sum of $12,325 22, being part of the penalty of the said writing obligatory in the said plaintiff's declaration in this case mentioned, for a breach of the condition of the said writing obligatory. And also that the said President, Directors and Company, at the same term of said Circuit Court, on like motion, recovered against the said Bland and Humphreys, the further sum of $2,674 75, being the residue of the penalty of said writing obligatory for another breach of the condition thereof, and the said defendant Humphreys further in fact saith that afterwards, to wit, on the twenty-third day of September, A. D. 1840, at the district aforesaid, he the said Humphreys fully paid and satisfied to the said President, Directors and Company of the said Planters' Bank the amount of the said two judgments so recovered as aforesaid, whereby the entire penalty of said writing obligatory in said declaration mentioned has been satisfied and discharged. And this he, the said Humphreys, is ready to verify, wherefore he prays judgment if the said plaintiff who sues aforesaid, ought further to have or maintain his aforesaid action thereof against him, &c.

H. T. ELLETT,
Att'y for said def't Humphreys.

UNITED STATES OF AMERICA,
Southern District of Mississippi.

Personally appeared before the undersigned commissioner for taking affidavits in the Circuit Court of the United States for the district aforesaid, Benjamin G. Humphreys, who made oath that the facts stated in the foregoing plea are true.

BENJ. G. HUMPHREYS.

Sworn to and subscribed this 2d day of November, 1844.

R. PARKINSON,
J. P. and Com'r.

U. S. Circuit Court,
Southern District of Mississippi.

A. G. McNutt, use of Leggett, Smith & Lawrence,
vs.
Richard J. Bland, Benjamin G. Humphreys & John Grissom.

Benjamin G. Humphreys, one of the above defendants, being duly sworn according to law, deposeth and saith, that since the rendition of the judgment in favor of the defendants in the above case, to wit, at May term, 1840, of the Circuit Court of Claiborne County, Mississippi, recoveries were had by the Planters' Bank against said Bland, and him said Humphreys, for the full amount of the penalty of the official bond of said Bland, given in November, 1837, and set forth in the declaration in this suit, on which this defendant Humphreys, and said Grissom, were sureties; and further, that the property of this defendant Humphreys was sold on said recoveries, and the full amount thereof, and the penalty of said sheriff's bond was made, and collected by the Coroner of Claiborne County, by the sale of the property of this defendant, on executions issuing on the judgments so recovered against him as surety on said sheriff's bond, and he prays to be permitted to plead the same as his defence in the above action.

BENJ. G. HUMPHREYS.

Sworn to and subscribed before me, the 2d day of November, 1844.

R. PARKINSON,
Com'r.

And afterwards, to wit, at the May term, 1845, to wit, on the 17th day of May, A. D. 1845, the following order was made and entered on the minutes of said Court, to wit: Ordered by the Court that the injunction be granted as prayed for, on complainant going bond in a penalty equal to double the amount of the judgment at law sought to be enjoined, with good and sufficient security, conditioned according to law, to be approved by the clerk of this Court; and sixty days are allowed said complainant to perfect said bond.

Copy of Bond.

United States of America,
Southern District of Mississippi, set.

Know all men by these presents that we, Benjamin G. Humphreys, James H. Maury, and Abram B. Bridgers, are held and firmly bound unto Thomas Leggett, Jr., Samuel Smith, and Smith Lawrence, partners under the firm of Leggett, Smith & Lawrence, in the just and full sum of twelve thousand eight hundred and eighty $\frac{12}{100}$ dollars, lawful money of the United States, to be paid to the said

Thomas Leggett, Jr., Samuel Smith, and Smith Lawrence, partners as aforesaid, their executors, administrators, or assigns, for which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators firmly by these presents, sealed with our seals, and dated the eighth day of July, A. D. 1845.

The condition of the above obligation is such that whereas the above bound Benjamin G. Humphreys has obtained from the Honorable the Circuit Court of the United States for the Southern District of Mississippi an injunction to stay all further proceedings at law in a certain judgment in said Court against the said Benjamin G. Humphreys, for the sum of six thousand three hundred and fifty-five dollars $\frac{33}{100}$ dollars, on the 14th May, 1845, with interest from date and costs, at the suit of Alexander G. McNutt, Governor of the State of Mississippi, and successor of Charles Lynch, for the use of the said Leggett, Smith & Lawrence.

Now, if the said Benjamin G. Humphreys, James H. Maury, and Abram B. Bridgers, in case the said injunction shall be dissolved, shall well and truly pay all moneys and costs due and to become due to the said Thomas Leggett, Jr., Samuel Smith, and Smith Lawrence, under the firm of Leggett, Smith & Lawrence, the plaintiffs in the said judgment, and also all such costs and damages as shall be awarded against them, then this obligation to be void, otherwise to be and remain in full force and virtue.

Sealed and delivered in presence of

B. G. HUMPHREYS, [SEAL.]
by H. T. ELLETT, *Att'y.*
JAS. H. MAURY, [SEAL.]
by H. T. ELLETT, *Att'y.*
A. B. BRIDGERS, [SEAL.]
by H. T. ELLETT, *Att'y.*

Endorsement.—Filed and approved, July 8th, 1845.

W. H. BROWN, *Clerk.*

And afterwards, to wit, on the 29th day of September, A. D. 1845, the following writ of subpœna issued in the words and figures following, to wit:—

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss.

The President of the United States to Thomas Leggett, Jr., Samuel Smith, and Smith Lawrence, greeting:—

For certain causes offered before us in our Circuit Court for the Southern District of Mississippi, sitting in Chancery, we command you that, laying all other matters aside, and notwithstanding any excuse, you personally appear at our Circuit Court in and for the said district, sitting in Chancery, to be held at the town of Jackson on the first Monday of November next, to answer to a bill of com-

plaint exhibited against you by Benjamin G. Humphreys, complainant in our said Court, and further to do and receive what our said Court shall consider in this behalf. Hereof fail not, as you will answer the contrary at your peril.

Witness the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States at Jackson, the first Mon-
[L. S.] day of May, A. D. one thousand eight hundred and forty-five, and in the 69th year of the Independence of the United States.

Issued the 29th day of September, 1845.

W. H. BROWN, *Clk*,
per C. H. ROGERS, *D. C.*

The defendants in this case are requested to enter their appearance in this suit in the Clerk's Office on or before the next rule day, otherwise the bill may be taken *pro confesso*.

W. H. B., *Clk.*

To the Marshal of the Southern District of Mississippi to execute and return.

Marshal's Return.

"Executed 6th October, 1845."

THOS. FLETCHER, *Marshal*,
per P. FLETCHER, *Deputy*.

Afterwards, to wit, on the 11th day of November, 1845, the defendants by their solicitors, Mason and Burwell, filed in said Court the following demurrer in the words and figures, to wit:—

The demurrer of the defendants, Leggett, Smith, and Lawrence, to the bill of Benjamin Humphreys, filed against them in the said Court.

To the Honorable, the Judges of the Circuit Court of the United States, for the Southern District of Mississippi, sitting in chancery.

The defendants by protestation, not admitting the allegations of said bill, or any of them to be tried, do demur to the said bill because they say that there is no equity in said bill as against these defendants, and that by reason of the allegations in said bill contained, the said complainant is not entitled in equity to the relief prayed for in the said bill, or to any relief against these defendants. Wherefore, because no case is made in said bill which entitles the said complainant to relief in a Court of Chancery, the said defendants do demur to said bill, and pray that the same may be dismissed, and that these defendants may be adjudged to have against the said complainants his costs herein expended, &c., and they will ever pray.

MASON & BURWELL.
for def'ts LEGGETT, SMITH & LAWRENCE.

Joinder in demurrer in short by consent.

ELLETT, and W. & A. YERGER,
Sol'rs for Comp'ts.

And afterwards, to wit, at the November Term of the Court first aforesaid, to wit, on the 17th day of November, in the year of our Lord one thousand eight hundred and forty-six, until which time this cause was legally continued. Be it remembered, that this cause came on to be heard upon the bill of complaint, and the demurrer of defendants thereto, and after argument, the Court being satisfied that the complainant is not entitled to the relief asked for by said bill—It is therefore ordered, adjudged, and decreed, and the Chancellor hereby orders, adjudges, and decrees that said bill be dismissed, and that complainants pay the costs of this suit to be taxed.

S. J. GHOLSON.

November 17th, 1846.

From which decree the complainant prays an appeal to the Supreme Court of the United States—which is granted, on his giving bond for the costs of suit by agreement, and also that said bond be approved by the clerk.

Copy of Bond.

UNITED STATES OF AMERICA,
Southern District of Mississippi, sct.

Know all men by these presents, that we, Benjamin G. Humphreys, and William Yerger, are held and firmly bound unto Leggett, Smith, and Lawrence in the just and full sum of five hundred dollars, lawful money of the United States, to be paid to the said Leggett, Smith, and Lawrence, their lawful attorney, executors, administrators or assigns, for which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators jointly and severally, firmly by these presents. Sealed with our seals, and dated the 20th day of January, A. D. one thousand eight hundred and forty-seven. The condition of this obligation is such that, whereas, at a term of the Circuit Court of the United States for the Southern District of Mississippi, commenced and held at the City of Jackson, on the first Monday of November, A. D. 1846, a decree was rendered by said Court in favor of the said Leggett, Smith, and Lawrence, against the said Benjamin G. Humphreys, by which a bill filed on the chancery side of this Court in favor of the said Humphreys against the said Leggett, Smith, and Lawrence was ordered to be dismissed at the costs of the said Humphreys; from which decree the said Humphreys prayed an appeal to the Supreme Court of the United States, to reverse said decree, which was granted

by agreement of counsel upon his entering into this bond for the costs of said appeal.

Now if the said Benjamin G. Humphreys shall prosecute his said appeal to effect, or shall well and truly pay and satisfy the amount of all such costs as the said Supreme Court of the United States shall adjudge in the premises, if he the said Humphreys shall fail to make his appeal good, then and in that case this obligation to be void, otherwise to remain in full force and virtue.

BENJ. G. HUMPHREYS. [SEAL.]
WM. YERGER. [SEAL.]

Teste,
GEO. W. GORHAM.

Endorsed: Filed and approved January 20th, 1847.

W. H. BROWN,
Clerk.

Mandate.

And on the fifth day of November, A. D. 1850, the following mandate from the Supreme Court of the United States was filed, to wit:—

UNITED STATES OF AMERICA, ss.

The President of the United States of America, to the Honorable [L. S.] the Judges of the Circuit Court of the United States, for the Southern District of Mississippi, Greeting:

Whereas, lately in the Circuit Court of the United States, for the Southern District of Mississippi, before you, or some of you, in a cause between Benjamin G. Humphreys, complainant, and Thomas Leggett, Jr., Samuel Smith, and Smith Lawrence, defendants in chancery, the decree of the said Circuit Court was in the following words, viz:—

"It is therefore ordered, adjudged and decreed, and the chancellor hereby orders, adjudges, and decrees, that said bill be dismissed, and that complainant pay the costs of this suit to be taxed," as by the inspection of the transcript of the record of the said Circuit Court, which was brought into the Supreme Court of the United States, by virtue of an appeal agreeably to the Act of Congress in such case made and provided, fully and at large appears. And, whereas, in the present term of December, in the year of our Lord one thousand eight hundred and forty-nine, the said cause came on to be heard before the said Supreme Court, on the said transcript of the record, and was argued by counsel. On consideration whereof, it is now here ordered, adjudged, and decreed by this Court, that the decree of the said Circuit Court in this cause be, and the same is hereby reversed with costs, and that the said complainant recover against the said defendants eighty dollars and thirty-nine cents for his costs herein expended, and have execution therefor.

And it is further ordered that this cause be, and the same is hereby remanded to the said Circuit Court for further proceedings to be had therein, in conformity to the opinion of this Court, May 7th.

You, therefore, are hereby commanded that such execution and further proceedings be had in said cause, in conformity to the opinion and decree of this Court, as according to right and justice, and the laws of the United States ought to be had, the said appeal notwithstanding. Witness the Honorable Roger B. Taney, Chief-Justice of said Supreme Court, the first Monday of December, in the year of our Lord one thousand eight hundred and forty-nine.

Costs of Complainant.

Clerk,	$60 39
Attorney,	$20 00
	$80 39

Taxed by

WM. THOS. CARROLL,

Clerk of the Supreme Court of the United States.

Answer of Defendants.

And afterwards, on the same day of filing said mandate, the defendants, Leggett, Smith, and Lawrence filed their following joint answer, to wit:—

CIRCUIT COURT OF THE UNITED STATES

for the Southern District of Mississippi.

BENJAMIN G. HUMPHREYS, Compl't,

vs.

THOMAS LEGGETT, JR., SAMUEL SMITH, and SMITH LAWRENCE, Def'ts.

The joint answer of the said defendants, Thomas Leggett, Jr., Samuel Smith, and Smith Lawrence to the bill of injunction of the said complainant Benjamin G. Humphreys.

These defendants saving and reserving to themselves all and all manner of benefit and advantage of exception to the manifold uncertainties, imperfections, and insufficiencies of the complainant's said bill, for answer thereunto, or unto so much thereof as materially concerns these def'ts to make answer unto, they answer and say, that they believe it to be true that such judgment was recovered against the complainant in the name of Alexander G. McNutt, Governor, &c. &c., for the use of these def'ts, as the compl't has mentioned and set forth in his said bill; but for greater certainty and a more complete exhibition of the tenor and effect of the said judgment, and of the antecedent proceedings in the suit which ended in such judgment, these def'ts refer to the record at large of the said judgment and of the whole process thereof both in this Court and in the Supreme Court of the U. States, from the origin and commencement of the

said suit in this Court down to the final judgment therein rendered by this Court in obedience to the mandate of the said Supreme Court, mentioned and referred to by the compl't in said bill; all which, or full exemplifications of all which they humbly hope and expect the compl't shall be compelled to produce, and that the same when produced shall be referred to and taken as part and parcel of the said bill and of this answer.

And these def'ts further answering as to all and singular the statements, allegations, and changes made and set forth by compl't in his said bill, touching the collusion between his late co-defendant in said suit, R. J. Bland, now deceased, and the Deputy Marshal for the Southern District of Mississippi, to conceal the said suit from his knowledge and notice, followed by the actual concealment of the same by means or such collusion, and by keeping him in utter and long-continued ignorance of the same during all the time it was pending in this Court, and afterwards in the Supreme Court, and until after the final judgment of the said Supreme Court therein, being in all near five years after the said suit had been duly commenced and prosecuted to issue and judgment in this Court; and charging the said Deputy Marshal with a wilfully false return of the alias writ or summons issued and returned in said suit; these def'ts answer and say, that at the time of the commencement of said suit in this Court, always before and ever since they have been and yet are citizens and inhabitants of the State of New York, and utter strangers to all three of the original def'ts in said suit, and to the Marshal and his said deputy for the said Southern District of Mississippi; that they trusted the whole conduct and management of the said suit and the due execution of all process therein to their attorneys and counsel and to the appointed and sworn officers and ministers of the law, without any interference on the part of these def'ts with the details of the professional and official duties performed by such their attorneys and counsel, or by such officers and ministers of the law in the premises; that they had no personal knowledge of the manner in which the said Marshal, or his deputy, or the eminent attorneys and counsel who appeared for the compl't and his then co-defendant the said R. J. Bland, in the said suit, and conducted the pleadings and defence therein in the names and behalves of both, and who, after the death of said Bland, conducted the pleadings and arguments in the said Supreme Court, on the said writ of error, for and in behalf of the compl't alone, performed and executed their respective duties in the premises. But these def'ts do, of their own certain knowledge, say that, if there were or could by any possibility be supposed any truth or color of truth in the aforesaid statements, allegations and charges of the compl't in his said bill, they had not, at any time whatsoever, nor have they now, any knowledge or suspicion, nor any cause or reason to know, or in any manner to suspect that the said alias writ or summons had not been duly executed according to the official return thereof, or that the said deputy mar-

shal had made such false return thereof as the compl't in his said bill has charged; or that the attorneys and counsel who appeared made defence and pleaded for the compl't and his said co-def't in this Court, and who managed and argued the said writ of error in the Supreme Court for the compl't alone, after the death of his said co-def't as aforesaid, had acted in violation of their duty and without due authority; or that the attorney and counsel who accepted service of the citation to appear to the said writ of error as attorney for both the said compl't and his said co-def't, was not in truth such counsel and attorney as he assumed to be in indorsing such acceptance on the said citation; or that the commencement and pendency of the said original suit and of the said writ of error, or of either, had been at any time, or in any manner, or by any means whatsoever, concealed from the compl't, or that he was by any fraud or accident, or by any means whatsoever, kept in ignorance, or, in fact, ignorant of the commencement and pendency of the said original suit and of the said writ of error; and these def'ts, further answering to the premises, say and aver that neither they, nor any person acting by their authority or in their behalf, had any participation whatsoever, direct or indirect, in bringing about any such concealment and ignorance of the said suit and writ of error as the compl't pretends in the premises. And these def'ts, further answering as to all and singular the premises, do answer and say that they have good and sufficient reason, and good, credible and certain information to think and believe, and do verily think and believe that all and singular the statements, allegations and charges of the compl't in his said bill touching his ignorance of the commencement and pendency of the said suit, are utterly unfounded and false, and are conclusively contradicted and set aside by matter of record and by relative circumstances, numerous and concurring, against the truth of all the said statements, allegations and charges; and, in particular, that the said alias writ or summons was duly served on the compl't personally according to the tenor of the return thereof made unto this Court by the said deputy marshal; and that the compl't from that time to the end of the said suit, and during all the time the same was pending in this Court, and during all the time it was pending in the Supreme Court after having been removed to that Court by writ of error, had full notice and knowledge thereof, and was continually informed and well aware of the whole process of the same in both Courts. And these def'ts submit to this hon'ble Court that if all the said statements, allegations and charges of the compl't touching his want of notice and ignorance of the said suit, and the causes of such want of notice and ignorance were true as set forth in said bill (which these def'ts in no sort admit, but expressly deny), all the said matters so complained of are exclusively cognizable and triable at law in an action against the marshal for his alleged false return, or in such other form of action as counsel learned in the law shall or may advise and devise; and that the compl't is not entitled to any relief

from a Court of Equity by reason of the said matters, as against these def'ts, either by way of relieving him from the imputation of laches or to the end of any substantive relief against these def'ts as he insists in his said bill. And these def'ts hope they shall have the same benefit of this defence as if they had demurred to the compl't's said bill, or otherwise pleaded to the same.

And these def'ts, further answering as to the two judgments which the compl't pretends and alleges in his said bill were recovered against him and the said R. J. Bland in the Circuit Court of Claiborne County by the President, Directors and Company of the Planters' Bank of the State of Mississippi at the May term, A. D. 1840, of that Court, and the executions thereof levied on the property of the compl't, these def'ts have no certain knowledge and do not admit, though they have heard and believe that such judgments are of record in the said Circuit Court, and that such executions were thereof levied and returned satisfied by the proper officer charged with the execution of the same; but these def'ts, not knowing the same of their own knowledge, nor having ever inspected or seen the records, or any exemplifications of the records of said judgments or executions, humbly hope and expect that the compl't, before he shall be let into any benefit from the same, shall be compelled to make due proof thereof, and to produce full and authentic exemplifications of the said judgments and of the whole process thereof, and also of the executions and of the returns of the executions so issued and levied as he pretends and alleges, and of all schedules and appraisements thereunto attached, and of all the proceedings, acts and conveyances whatsoever had, made or done in pursuance of such executions; and these def'ts, further answering, say that they have good reason, and good, certain and credible information to think and believe, and they do verily think and believe that the compl't at and before the time when the said suits were brought, and the said judgments were recovered against him and the said Bland by the said President, Directors and Company of the said Bank, as he pretends in his said bill, well knew that the said suit so brought in this Court against him and his said co-defendant Bland, for the use of these defendants as aforesaid, had been commenced and prosecuted to final judgment in this Court, and removed by writ of error to the Supreme Court of the U. States, and was still pending and undetermined in the last mentioned court; that the said judgments, at the suit of the said President and Directors, were collusively and covinously suffered for the intent and purpose of defeating and defrauding these def'ts and their judgment creditors who had suffered by the official defaults of the said Bland as sheriff; that the said executions on the last mentioned judgments were collusively and covinously issued and levied, and the property of the compl't collusively and covinously sold under such executions for the same intent and purpose, and to give a false color for pretending that the penalty of the said sheriff's bond had been exhausted

by such judgments and executions; that though a large and valuable real estate, and a great number of valuable slaves, all the property of the compl't, were ostensibly sold to satisfy said executions, yet no part of the said property ever changed hands in consequence of such sales, but were bid out to a secret agent or by-bidder of the compl't, who never for an instant took possession or demanded possession of any of the property, real or personal, so bid out to him, but that the compl't himself retained continued and uninterrupted possession, and has always remained and to this day remains in the full and uninterrupted possession and enjoyment of all the said property, real and personal, notwithstanding such sales; and that no value was paid either by the compl't or by his said agent or by-bidder, either to the officer who executed the said sales, or to the said President, Directors and Company for the property, or any part of the property so pretended to be sold under the said executions, unless by way of cover and pretence some nominal price may have been collusively paid in the form of broken bank paper taken at par, though at an extreme depreciation in the market. Such these def'ts believe, from good and credible information, to be the true state of the facts, and such they believe it to be in their power to prove, if need there be for such proof. But these def'ts submit to this hon'ble Court that all and every of the matters touching the said two judgments and executions, and in the compl't's bill mentioned and complained of, may be tried and determined at law, and with respect to which the compl't is not entitled to any relief from a Court of Equity, or if entitled to any relief from a Court of Equity, not against these def'ts, but against the said President, Directors and Company. And these def'ts humbly hope they shall have the same benefit of this defence as if they had demurred to the compl't's said bill, or otherwise pleaded to the same.

These def'ts deny all and all manner of fraud and combination wherewith, &c. &c. Without this that they have left unanswered any matter or thing in the said bill contained which it was necessary or material for them to answer, &c. &c. And they pray to be hence dismissed with their costs in this behalf most wrongfully sustained, &c. &c.

THOMAS LEGGETT, Jr.
SAMUEL SMITH,
SMITH LAWRENCE.

UNITED STATES OF AMERICA,
Southern District of New York, ss.

On this twenty-eighth day of March, A.D. 1846, before me personally appeared Thomas Leggett, Jr., Samuel Smith and Smith Lawrence, who being by me severally affirmed according to law, said, and each for himself saith, that he had read the foregoing answer by him subscribed, and knows the contents thereof, and that all and singular the averments, matters and things stated and

averred in the said answer, as of his personal knowledge are true as therein stated and averred, and that as to all such averments, matters and things which he has stated and averred in the said answer, as from information and belief, he has good reason to believe, and does verily think and believe the same to be true in manner and form as they are stated and averred in the said answer.

SAMUEL R. BETTS,
Judge of the United States for the Southern District of New York.

UNITED STATES OF AMERICA,
Southern District of New York, ss.

I, James W. Metcalf, Clerk of the District Court of the United States of America, for the Southern District of New York, second Circuit, do hereby certify that I am well acquainted with the handwriting of Samuel R. Betts, whose name is subscribed to the annexed certificate of affirmations administered, and that the signature to the same is in his proper handwriting. And I do further certify that he was at the time of signing the same Judge of the District Court of the United States of America for the Southern District of New York.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of the said District Court, this second day of April, in the year of our Lord one thousand eight hundred and forty-six, and of the Independence of these United States the seventieth.

[L. S.] J. W. METCALF,
Clerk.

Replication.

And on the 8th day of November, A.D. 1850, the following Replication was filed, to wit:

In the Circuit Court of the United States, in and for the Southern District of Mississippi, in Chancery sitting.

The replication of Benjamin G. Humphreys, complainant, to the answer and amended and supplemental answer of Thomas Leggett, Jr., Samuel Smith and Smith Lawrence, defendants.

This repliant saving and reserving to himself all and all manner of advantage of exception which may be had and taken to the manifold errors, uncertainties, and insufficiences of the answers of the said defendants, for replication thereunto saith that he doth and will aver, maintain, and prove his said bill to be true, certain, and sufficient in the law to be answered unto by the said defendants, and that the said answers are very uncertain, evasive, and insufficient in the law to be replied unto by this repliant, without that, that any other matter or thing in the said answers contained, material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed or avoided, traversed or denied, is true; all which matters and things this repliant is ready to aver,

maintain, and prove, as this honorable Court shall direct, and humbly prays, as in and by his said bill he hath already prayed.

H. T. ELLETT,
Sol'r for Complainant.

Motion to substitute New Injunction Bond.

And at the November term, A. D. 1850, of the Court aforesaid, to wit, on the 14th day of November, 1850, the following orders were made and entered on the minutes of the Court, to wit:—

B. G. HUMPHREYS
vs. } 133.
LEGGETT, SMITH, and LAWRENCE.

In Chancery.

Motion to substitute a new injunction bond in this case, in lieu of the one heretofore given, because James H. Maury, one of the sureties on said injunction bond, is a material witness for the complainant.

Ordered by the Court, that the motion be sustained upon the complainant's executing a new injunction bond with David G. Humphreys and John G. Humphreys, his sureties, in the penalty and condition of the original injunction bond, and with the additional condition that complainants, in the event said injunction be dissolved, will pay all damages defendants may have sustained heretofore by reason of the wrongful suing out of said injunction.

It is also further ordered, that W. S. Wilson, of Claiborne Co., and H. H. Miller, of Warren Co., Missi., be appointed commissioners to take testimony in this cause.

Affidavit.

At the time of making the motion above considered, the following affidavit was filed, to wit:—

U. S. CIRCUIT COURT,
for the Southern District of Mississippi.

BENJ. G. HUMPHREYS
vs. } No. 133.
LEGGETT, SMITH, and LAWRENCE.

H. T. Ellett, solicitor for complainant in the foregoing cause, states that James H. Maury, one of the sureties on the injunction bond in this case, is, as he verily believes, a material witness for the complainant in the above cause, whose testimony it will be necessary to have at the hearing.

He further states that David G. Humphreys or John G. Humphreys, who are offered as new sureties, are either of them very responsible and solvent men, possessed of ample property to pay the full amount of the penalty of said injunction bond.

H. T. ELLETT.

Sworn and subscribed this 9th of November, 1850, before me in open Court.

W. H. BROWN, *Cl'k.*

Motion and Orders as to Am'd Answer.

And on the 5th day of May, A. D. 1851, the following motion was filed, to wit:—

"B. G. HUMPHREYS
vs.
LEGGETT, SMITH, and LAWRENCE.

Motion by defendants for leave to file an amended and supplemental answer.

BURWELL, for Mo.

ELLETT, Contra."

And at the May term, A. D. 1851, of the Court aforesaid, to wit, on the 9th day of May, 1851, the following order was made, viz:—

"B. G. HUMPHREYS *et al.*
vs.
LEGGETT, SMITH, and LAWRENCE. } 133.

In Chancery.

Motion to file amended and supplemental answer.
Ordered by the Court that the motion be sustained."

Amended and Suppl't'l Answer.

To the Honorable the Judges of the Circuit Court of the United States, sitting in Chancery for the Southern District of Mississippi.

The amended and supplemental answer of Thomas Leggett, Jun., Samuel Smith, and Smith Lawrence, partners under the firm of Leggett, Smith, & Lawrence, to the bill of Benjamin Humphreys against them.

These defendants, by way of further answer to said bill, state that since the last term of this Court, that is, about the first day of January, 1851, they were informed, and upon such information aver and state that the said Bland, in July, 1840, or thereabouts, transferred and assigned to said Humphreys the said judgment of the Planters' Bank of Mississippi, against Passmore Hoopes, Joseph H. Moore, and John M. Carpenter, for $\$10{,}524\frac{44}{100}$, mentioned in the bill of said Humphreys, and that by virtue of such assignment the said Humphreys received and recovered of and from the estate of said John M. Carpenter the full amount of said debt, and the interest and costs, amounting to more than the sum of eighteen thousand dollars; so that in fact these defendants say and aver that the said Humphreys did not pay the penalty of the said sheriff's bond, as in said bill is falsely alleged; but at the very time, or about the time

the said motion of the Planters' Bank was made in the Claiborne Circuit Court, the said Bland placed in said Humphreys' hands the above debt, the full amount of which has been realized. That Humphreys received from various sources funds to an amount exceeding the bond, and all liabilities he was under for Bland.

And all this these defendants are ready to prove as the Court may require, and having answered.

THOMAS LEGGETT, JR.,
SAMUEL SMITH,
SMITH LAWRENCE.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

On this 29th day of March, A. D. 1851, before me, Samuel R. Betts, Judge of the District Court of the United States for the Southern District of New York, personally appeared Thomas Leggett, Jr., Samuel Smith, and Smith Lawrence, who being by me duly affirmed, said, and each for himself said, that he had read the foregoing answer by them subscribed and knew the contents, and that the same was true of his own knowledge, except as to matters stated to be on information and belief, and as those matters he believed it to be true.

SAM'L R. BETTS,
Judge of the United States for the Southern District of New York.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, George W. Morton, Clerk of the District Court of the United States of America, for the Southern District of New York, do hereby certify that I am well acquainted with the handwriting of Samuel R. Betts, whose name is subscribed to the annexed oath to the answer, and that the signature to the same is in his proper handwriting. And I do further certify that he was, at the time of signing the same, Judge of the District Court of the United States of America, for the Southern District of New York.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of the said District Court, this twenty-ninth day of March, in the year of our Lord one thousand eight hundred and fifty-one, and of the Independence of these United States the seventy-fifth.

[L. S.] GEO. W. MORTON,
Clerk.

Agreement and Order.

And on the 13th day of May, A. D. 1851, the following agreement was filed and order made, to wit:—

Agreement.

HUMPHREYS
vs.
LEGGETT *et al.*

Time for taking depositions extended to 1st Monday of November, and time to answer cross-bill extended 40 days. We agree to this.

A. BURWELL,
H. T. ELLETT.

Order.

B. G. HUMPHREYS
vs.
LEGGETT, SMITH, & LAWRENCE. } 133.

In Chancery.

By consent, it is ordered by the Court that the time for taking testimony be extended to first Monday of November next, and time to answer cross-bill extended forty days. Agreement filed.

Order as to new Injunction Bond set Aside.

And at the May Term, A. D. 1852, of the Court aforesaid, to wit, on the 7th day of May, 1852, the following order was made, to wit:—

"B. G. HUMPHREYS
vs.
LEGGETT, SMITH, & LAWRENCE. } 133.

In Chancery.

Motion to set aside the order made in this cause 14th November, 1850, to substitute a new injunction bond with David G. Humphreys and John C. Humphreys as security, sustained."

Set for Hearing.

B. G. HUMPHREYS
vs.
LEGGETT, SMITH, & LAWRENCE. } 133.

Bill, &c.

LEGGETT, SMITH, & LAWRENCE
vs.
B. G. HUMPHREYS. } 230.

Cross-Bill.

The above cases set for hearing on bill, cross-bill, answers, exhibits, and proofs.

May 1, 1854.

H. T. ELLETT,
Sol. of
B. G. HUMPHREYS.

A. BURWELL,
Contra.

Agreement as to Testimony.

CIRCUIT COURT OF U. S.

B. G. HUMPHREYS
vs.
LEGGETT, SMITH, & LAWRENCE. } 133.

In Chancery. Bill, &c.

LEGGETT, SMITH, & LAWRENCE
vs.
B. G. HUMPHREYS. } 230.

Cross-Bill.

In the above cause, it is agreed that either party may take depositions before William S. Wilson, James A. Maxwell, or any Justice of the Peace or Commissioner in Claiborne County, without the formality of issuing a commission or filing interrogatories in the clerk's office, on giving ten days' notice to the opposite counsel, and the case to stand continued until the next term of this Court.

May 2, 1854.

A. BURWELL,
For LEGGETT & CO.

H. T. ELLETT,
For HUMPHREYS.

Continuances.

And afterwards, at the November term, A. D. 1854, to wit, on the 16th day of January, 1855, the following order was made, to wit:

B. G. HUMPHREYS
vs.
LEGGETT, SMITH & LAWRENCE. } 133.

In Chancery. On Issue Docket.

LEGGETT, SMITH & LAWRENCE
vs.
B. G. HUMPHREYS. } 230.

In Chancery. On Issue Docket.

The above causes continued by agreement filed.

And at the May term, A. D. 1855, to wit, on the 14th day of May, 1855, and also at the November term, A. D. 1855, to wit, on the 26th day of January, 1856, the above causes were duly continued.

Proof for Complt. Filed May 7, 1855.

U. S. CIRCUIT COURT,
South Dist. of Missi.

A. G. MCNUTT, use of LEGGETT, SMITH and LAWRENCE,
vs.
BLAND and HUMPHREYS.

At May term of the Court aforesaid, A. D. 1845, on the tenth day of said month, the following entry was made in the foregoing cause, to wit:

A. G. MCNUTT, use, &c.,
vs.
BLAND & HUMPHREYS.

Motion for leave to file a plea *puis darien* continuance for defendant Humphreys. Ordered that the motion be *overruled*.

I, William H. Brown, clerk of the Circuit Court of the United States for the Southern District of Mississippi, do certify that the foregoing is a true copy of an order entered in said cause, on the day above stated, as the same appears on the minutes of said court.

Witness my hand and the seal of said court this 11th day of January, A. D. 1855, and of the Independence of the United States the 79th.

[L. S.]

W. H. BROWN
Clk.

Deposition of James Maury.

Rec'd and Filed Sept. 16, 1854. Opened Jan'y 11, 1855.

U. S. CIRCUIT COURT,
South Dist. of Missi.

In Chancery.

B. G. HUMPHREYS
vs.
LEGGETT, SMITH & LAWRENCE.

You will take notice that on Monday the 11th day of September next, the depositions of James H. Maury and others, witnesses on the part of the complainant in the above case, will be taken before W. S. Wilson, Esq., a commissioner of said court, at his office, in Port Gibson, when you can attend if you see proper.

Yours &c.,
H. T. ELLETT,
Sol.

Aug. 17, 1854.

To A. BURWELL, Esq.,
Sol. for Def'ts.

I acknowledge service of the above notice, and consent to the taking of the depositions in pursuance thereof.

A. BURWELL,
Sol. and Atto. for Leggett, Smith and Lawrence.

UNITED STATES OF AMERICA,
Southern District of Mississippi.

BENJAMIN G. HUMPHREYS
vs.
LEGGETT, SMITH & LAWRENCE. } No. 133.

In the Circuit Court in and for said District. In Chancery.

In pursuance of the notice hereunto annexed, I, the undersigned, a commissioner appointed by the Court aforesaid to take affidavits, depositions, &c. in the County of Claiborne, and specially appointed to take depositions in the foregoing cause, did cause to come before me at my office in the town of Port Gibson, in the County aforesaid, on Monday the eleventh day of September, A. D. 1854, James H. Maury, one of the witnesses on the part of the complainant in the said cause named in said notice, who being by me duly sworn to testify the truth, the whole truth, and nothing but the truth, and examined in the presence of H. T. Ellett, Solicitor of complainant, and John B. Coleman, Esq., Solicitor on behalf of the above defendants, did depose and testify as follows, to wit:—

Interrogatory first, on the part of said complainant.

Are you a practising lawyer in the State of Mississippi, and were you so in the year 1840 ?

To the first interrogatory he answers and says—That he is a practising lawyer in the State of Mississippi, and was such in the year 1840.

Interrogatory second, on the part of complainant.

Were you the attorney for the plaintiffs in two motions in favor of the President, Directors, and Company of the Planters' Bank of the State of Mississippi, against Richard J. Bland, sheriff of Claiborne County, and Benjamin G. Humphreys, and John Grissom, sureties on his official bond given in November, 1837, which motions were made at May Term, 1840, of the Circuit Court for said County of Claiborne, and in which judgments were obtained at said term; one for the sum of $11,775, with $526 22 damages, and $24 original costs, making in all $12,325 22 against the said Bland, Humphreys, and Grissom, and the other for $2,674 75 (the balance of the penalty of said official bond), against said Bland and Humphreys ?

If yea, state whether said judgments have been satisfied, and when, and by whom, or out of whose property the same were satisfied.

To the second interrogatory, he answers and says:

That he was the attorney for the plaintiff in the two motions referred to, and obtained the judgments described. Executions were issued upon the judgments, and were levied on the property of Benjamin G. Humphreys which was sold, and the money raised by the sale was applied to said executions. On one of the executions there seems to be a balance of $206 85 unpaid, but witness states that he feels satisfied that this balance was also paid by Mr. Humphreys, or by sales of his property.

JA. H. MAURY.

And I further certify, that the said witness was carefully examined and cautioned, and that the testimony of said witness was reduced to writing by me, and signed by said witness in my presence; and further, that I am not counsel or attorney for either of said parties, nor interested in said cause. And having taken and closed said deposition, I am about to seal up the same and deposit it in the post office at Port Gibson, directed to the Clerk of the said United States Circuit Court, at Jackson, Mississippi.

Witness my hand and seal this eleventh day of September, A. D. 1854.

W. S. WILSON. [SEAL.]

Cross-Bill.

THOMAS LEGGETT, JR., SAMUEL SMITH, & SMITH LAWRENCE
vs.
BENJAMIN G. HUMPHREYS.

No. 230.

Be it remembered, that heretofore, to wit, on the 3d day of April, A. D. 1851, came the complainants, Leggett, Smith, and Lawrence, by their solicitors, Mason & Burwell, and filed in the Clerk's office of the Court aforesaid their certain bill of complaint against Benjamin G. Humphreys, with exhibits thereto, and procured process to be issued thereon, which said bill, exhibits, and process read in the words and figures following, to wit:—

Cross-Bill.

To the Judges of the Circuit Court of the United States for the Southern District of Mississippi.

Thomas Leggett, Samuel Smith, and Smith Lawrence, citizens of the State of New York, bring this their bill against Benjamin G. Humphreys, a citizen of the State of Mississippi.

And thereupon your orators complain and say, that heretofore, on the 17th May, 1845, the said Humphreys filed his bill against your orators in this court, praying to be relieved against a certain judgment at law obtained by your orators against him, and after various proceedings had therein, your orators on the 5th day of November, 1850, filed their answer, and on the 8th of same month the said Humphreys filed his replication, which bill is now pending and undetermined in this Court.

Your orators are advised and so believe and charge, that to a fair and full trial of the merits of said bill (which, with the pleadings thereon, your orators here beg leave to refer to), a discovery of certain matters from the said Humphreys is necessary, and that your orators are entitled thereto, and to an answer from said Humphreys and an account of certain matters connected with the said original bill as hereinafter shown.

Your orators aver and charge that the said Robert J. Bland, to indemnify the said Humphreys as his surety on the bond of said Bland as sheriff, referred to in the said pleadings, transferred, assigned, and set over unto the said Humphreys, certain debts, rights of action, property, real and personal, to an amount more than equal to the bond aforesaid, and that from these debts, rights of action, and property, the said Humphreys has, in fact, received more than he has paid as security for said Bland. Among other things so assigned, the said Bland transferred to said Humphreys all the costs due to said Bland as sheriff, amounting to a very large sum of money, which was received by said Humphreys; these sums your orators aver and charge are numerous and of comparatively each of small amount, but

in the aggregate amount to a large sum of money; that the proof of these various sums would be very difficult, and the expense thereof onerous, involving a copy of a large number of records of the various suits in which said Bland as sheriff was entitled to fees; and such records would uselessly encumber the cause. Your orators, therefore, are advised that they are entitled to have an account from said Humphreys, showing the amount received by him of the fees of said Bland, and the suits in which the same were due. Your orators also further state that said Bland transferred to said Humphreys, the said judgments of the Planters' Bank against Passmore Hoopes, Joseph H. Moore, and John M. Carpenter, and of same plaintiffs against Robert W. Campbell, Joseph O. Pierson, and Joseph H. Moore, amounting to about fifteen thousand dollars, being the same judgments set up by said Humphreys in his said original bill, which, by virtue of the statute, the said Bland was entitled to; and that the said Humphreys has collected the whole amount of the said judgment against Hoopes, Moore, and Carpenter, amounting to the sum of

Your orators here file a certified copy of a petition, filed by said Humphreys in the Superior Court of Chancery of the State of Mississippi, and of orders and proceedings had thereon, marked *A*, *A*, and pray them to be read and taken as part of this bill. Your orators have no certain and reliable evidence that the said other judgment of said Bank *vs.* Robert W. Campbell and others, has been also collected, but are informed and believe that it could have been collected as the debtors had, at the date of it, ample property, and, therefore, are advised that they are entitled to ask discovery from said Humphreys, and that he show and set forth what money, or property, or other valuable thing he may have received on account of such judgment. Your orators further aver and charge that the said Bland owned property, and had other debts due to him, all of which he transferred and conveyed to said Humphreys to indemnify him as security on said sheriff's bond, and that out of the effects so transferred and conveyed said Humphreys was fully indemnified, and instead of having paid any sum as security has actually, and, in truth, been a large gainer by the transaction. Your orators are advised that said Humphreys ought to be compelled to answer and disclose all his dealings with said Bland in the premises, and set out all the money, property, or other valuable thing received by him on account of said bond, and his liability thereon as surety, all which matters are within the knowledge of the said Humphreys, and are necessary to a full and fair trial of the said original bill. Your orators further state and aver that the notes and issues of the said Planters' Bank, received from said Humphreys in payment of said two judgments alleged by him to have been paid in full extinguishment of said sheriff's bond, were greatly below par, and that said Humphreys paid no money, but notes or other issues of said bank, which he purchased in the market at about 50 cents on the dollar, but your orators do not know from whom said Humphreys purchased said notes or other issues,

or the price paid or agreed to be paid therefor, and from the nature of such transactions cannot proceed to take testimony on this subject until the said Humphreys shall answer and set forth how he paid said judgments; in what funds; from whom acquired; and at what price, and on what terms; all which your orators pray he may answer and disclose fully.

Your orators pray that the premises being considered, the said Humphreys may be made defendant, and full, true, and perfect answer make to all and singular the matters aforesaid, and full, true, and perfect discovery make of everything touching or concerning the premises, and full, true, and perfect account render of all the matters aforesaid; and that this may be taken and deemed as a cross bill in the said suit of said Humphreys against your orators; and the hearing thereof suspended until the answer be made hereto, and all proofs taken touching the premises or reasonable time given therefor. And that the said original bill of said Humphreys may be dismissed at his costs; and your orators have in the trial of said suit all the benefit of the answer and proofs herein in the same manner as though they were made and taken in the said original suit, or such other relief and order in the premises as may be right and proper.

May it please your Honors to grant the writ of subpœna, directed to said Humphreys, commanding him, &c., and your orators will ever pray, &c.

MASON & BURWELL,
For Compl'ts.

Exhibits A A.

(1st.)

PARISH & Co. *et al.*
vs.
HARPER, CARPENTER & Co. *et al.*

In Chancery of Missi.

Benjamin G. Humphreys, one of the above complainants, claims to be a creditor of H. Carpenter & Co., as the holder of a bill of exchange drawn by B. Hughes on Bogart & Hoopes, payable to Jos. H. Moore & Co., and by H. Carpenter & Co., dated Port Gibson, Nov. 9, 1835, at four months after sight, accepted Nov. 23, 1845, and due March 23-26, 1836, for $8,000, as follows, to wit:—

Bill of exchange, due March 26, 1836.	$8,000 00
Damages thereon, at 10 c.,	800 00
Interest from March 26, 1836.	

In support of his claim he offers the following proof, to wit:—

1. The original bill of exchange and the protest thereto attached.
2. The deposition of William Christy, the notary by whom the bill was protested.

3. The deposition of A. H. Ringgold, by whom the notice for H. Carpenter & Co. was forwarded from Natchez to Port Gibson.

4. The testimony of George W. Summers to show the place of residence of H. Carpenter & Co., and to show that the endorsement of the bill in question is in the handwriting of Horace Carpenter.

5. A transcript of a judgment obtained upon the said bill of exchange by the Planters' Bank against John M. Carpenter, surviving partner of the firm of H. Carpenter & Co., and others, in the Circuit Court of Claiborne county, on the 4th of December, 1838, for $10,524 44.

6. A transcript of a judgment recovered by the Planters' Bank against R. J. Bland, sheriff, and B. G. Humphreys and John Grissom, sureties on his appeal bond in the Circuit Court of Claiborne county, on the 30th May, 1840, for $11,775, and also $526 22 damages and $24 costs, in all $12,325 22, for the failure of the said Bland as sheriff to return an execution on said judgment of the Planters' Bank against Carpenter *et al.* for $10,524 44; and also the executions and proceedings showing the payment thereof by said Humphreys.

7. An assignment by said Bland to Humphreys, dated July 30th, 1840, of all his interest in said judgment of the Planters' Bank against John M. Carpenter *et al.* for $10,824 44, or to the note, &c., on which it was founded.

If the claim of said Humphreys to recover the amount of said bill of exchange, as the holder thereof, shall, under the said proof, be disallowed, then he claims to be a creditor of said H. Carpenter & Co. for the amount of the said judgment of the Planters' Bank against John M. Carpenter *and al.*, obtained Dec. 4, 1838, for $10,524 44, with interest from the 4th Dec., 1838, at 8 per cent., and the costs of said suit, $24 00, at 8 per cent., said amounts having been paid by him, and he relies on the above proofs to establish his claim.

H. T. ELLETT,
Sol'r of B. G. Humphreys.

I, J. T. Simms, Clerk of the Supreme Court of Chancery of the State of Mississippi, do certify that the above and foregoing page contains a true and correct copy of the claim of B. G. Humphreys, filed in said Court in the case of Baugh *et al. v.* Carpenter *et al.*

Given under my hand and seal of said Court at Jackson, the 12th day of May, A. D. 1831.

[L. S.]

J. T. SIMMS, *Cl'k*,
per L. MIMS, *D. C.*

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(2d.)

THOMAS W. BAUGH *et ux.*
vs.
JOHN M. CARPENTER *et al.*

In the Superior Court of Chancery of the State of Mississippi.

The amended and supplemental petition of Benjamin G. Humphreys shows that his claim referred to in his original petition has been duly proven before and allowed by the Master Commissioner to whom the same was referred. Your petitioner further shows that the testimony taken by said commissioner proves that the note which constituted the foundation of your petitioner's claim was endorsed by H. Carpenter & Co. in the proper handwriting of said Horace Carpenter; that said commissioner in his report allows the claim of your petitioner, and reports that there is due to your petitioner, for principal and interest thereon up to the 15th day of January, A. D. 1850, the aggregate sum of eighteen thousand eight hundred and fifty-two dollars and seventy-five cents; and your petitioner avers that the same is justly chargeable upon the estate of Horace Carpenter individually in the hands of his executors, as also against the surviving effects of H. Carpenter & Co., and against John M. Carpenter individually. The amount of your petitioner's demand is continually increasing thereon, whilst the money in the hands of the receiver in *in* this cause remains uninvested and unproductive. It would therefore contribute to the advantage of the heirs of said Horace Carpenter and the creditors generally for your petitioner's demand to be immediately paid. Your petitioner prays your Honor for an order on William R. McAlpine, the receiver in this cause, directing the payment thereof out of the funds now in his hands, upon such terms as your Honor may see fit to impose.

BENJ. G. HUMPHREYS.
ELLETT, THRASHER & SELLERS,
His Solicitors.

The State of Mississippi.

I, J. T. Simms, Clerk of the Superior Court of Chancery of said State, do certify that the foregoing page contains a true and correct copy of the petition of B. G. Humphreys filed in the foregoing entitled cause in said court.

Given under my hand and seal of said court, at Jackson, the 9th day of May, A. D. 1851.

[SEAL.]

J. T. SIMMS, *Clerk*,
per L. MIMS, *D. C.*

(3d.)

To the Hon. R. H. Buckner, Chancellor of the State of Mississippi. Humbly complaining sheweth unto your Honor, your orator Benjamin G. Humphreys, of the County of Claiborne, that Thomas W. Baugh, and Martha, his wife, late Martha Carpenter, widow of Horace Carpenter, deceased, and Henry Carpenter, Margaret Carpenter, and Jane Carpenter, children and devisees of Horace Carpenter, heretofore filed their bill of complaint in this Honorable Court against John M. Carpenter, executor of the last will and testament of Horace Carpenter and surviving partner of the firm of Horace Carpenter & Co., and Abram A. Green, and Mary H., his wife, late Mary H. Carpenter, praying to be relieved touching the several matters therein contained: and afterwards the said complainants filed their supplemental and amended bill in said cause, setting forth among other things that several executions issued upon judgments obtained against said John M. Carpenter individually, had been levied by the sheriff of Washington County upon divers negroes, being partnership property of said firm of H. Carpenter & Co., and the interest of said John M. Carpenter advertised for sale upon said execution, and praying that the sheriff of Washington County might be enjoined from making delivery of said negroes to the purchasers at his sale, on the ground that being partnership property, only the interest of said John M. Carpenter, being his share thereof, after settlement of the partnership debts, was liable to sale on said executions and procured such injunctions. And your orator sheweth, that, among the judgments and executions so enjoined, is an execution issuing on a judgment obtained in the Circuit Court of Claiborne County, on the 4th Dec., 1838, by the President, Directors and Company of the Planters' Bank of the State of Mississippi, against said John M. Carpenter and others, for the sum of $\$10{,}524\frac{44}{100}$, which judgment was obtained against the said John M. Carpenter as surviving partner of said firm of H. Carpenter & Co., upon a copartnership liability of said firm, as appears by an exemplification of the record of said judgment and copy of the bill of exchange sued on, herewith filed. And your orator sheweth, that, by reason of said injunction, restraining the delivery of the property, and execution on said judgment had proved wholly unproductive, and no sale has been made under it, nobody being willing to bid for property so situated. And your orator is advised that said debt ought to be paid out of the partnership property of said firm, and that said injunction ought to be dissolved as to said judgment, and the sheriff be permitted to make the money out of said property as in other cases, inasmuch as the property is vested in said John M. Carpenter as surviving partner of said firm for all the purposes of the payment of the debts of said firm, and is subject to the legal remedies of the creditors. And your orator sheweth that he was one of the sureties of R. J. Bland, former sheriff of Claiborne County,

on his official bond, that said Bland is dead and his estate utterly insolvent, that at May term, 1840, of Claiborne Circuit Court, the Planters' Bank recovered a judgment against said Bland and his sureties, of whom you orator was one, for the amount of said judgment on account of the failure of said Bland to return an execution issued on said judgment, that said judgment against said Bland and his sureties was paid, whereby the original execution vested in said Bland for his use and benefit, that your orator has been compelled to pay for said Bland as surety on his official bond about $22,500, and as a partial indemnity against the same, said Bland assigned to your orator all his interest in said original execution, whereby your orator became entitled to and now owns the same. And your orator therefore, prays your Honor that he may be made a defendant to said amended and supplemental bill, and that he may be permitted to answer the same and exhibit said judgment and the proceedings above referred to, to the end that he may be heard upon a motion to dissolve said injunction, and that his interests in said suit may receive proper attention, and he will ever pray, &c.

H. T. ELLETT,
Sol. and Counsel for
B. G. HUMPHREYS.

Benjamin G. Humphreys being duly sworn, saith that the facts stated in tne foregoing petition, are true to the best of his knowledge and belief.

Benj. G. Humphreys sworn and subscribed this 19th day of January, 1842, in open court.

R. L. DIXON,
Cl'k.

SUPERIOR COURT OF CHANCERY,
of the State of Mississippi.

December Term, 1849.

On reading and filing the original and supplemental petition of Benjamin G. Humphreys, one of the defendants in said cause, and on motion of his solicitors, it is ordered that the demand of said Humphreys, described in said petitions, and marked number 49, in the report of the commissioner in this cause, amounting on the 15th day of January, A. D. 1850, to the sum of eighteen thousand eight hundred and fifty-two dollars and seventy-five cents, be paid upon the said Humphreys, executing and filing with the papers in said cause, a refunding bond in the penalty of $37,000 00 with David G. Humphreys & James H. Maury as his sureties, and that William R. McAlpine, the receiver appointed in this cause, and the cause of Parish & Co. et al. against H. Carpenter & Co. Exe'rs et al., upon exhibiting to him a copy of this order with the certificate of the

Clerk of this Court, that said refunding has been filed, be required to pay to the said Benjamin G. Humphreys said sum of $18,852 75, out of the funds in his hands as such receiver, and the receipt of said Humphreys shall be a good acquittance to said receiver therefor,

May 7th, 1850. STEPHEN COCKE.

THE STATE OF MISSISSIPPI.

I, J. T. Simms, Clerk of the Superior Court of Chancery of said State, do certify that the foregoing three pages contain a true and correct copy of the petition of B. G. Humphreys in the case of Thomas M. Baugh & als. *vs.* Jno. M. Carpenter & als. now on file in said county. Also, a copy of the order entered on the minutes of said Court, directing the receiver in said cause, to pay the claim of said Humphreys upon his entering into and filing a refunding bond in the penalty of $37,000, which bond has been duly filed.

Given under my hand and seal of said Court, at Jackson, the 12th day of May, A. D. 1851

[L. S.] J. T. SIMMS, *Clk*,
per L. MIMS, *D. C.*

Subpœna.

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss.

The President of the United States to Benjamin G. Humphreys, greeting:—

For certain causes offered before us in our Circuit Court for the Southern District of Mississippi, sitting in Chancery, we command you that laying all other matters aside, and notwithstanding any excuse, you personally appear at our Circuit Court, in and for the said District, sitting in Chancery, to be held at the town of Jackson, on the first Monday of May next, to answer to a bill of complaint exhibited against you by Thomas Leggett, Jr., Samuel Smith, and Smith Lawrence, complainants in our said Court; and further to do and receive what our said Court shall consider in this behalf. Herein fail not, as you will answer the contrary at your peril.

Witness the Honorable Roger B. Taney, Chief-Justice of the Supreme Court of the United States, at Jackson, the first Monday [L. S. in Nov'r, A. D. one thousand eight hundred and fifty, and in the 75th year of the Independence of the United States.

Issued the 3d day of April, 1851.

The defendants are required to enter their appearance in this suit, in the clerk's office on or before the day to which this writ is returnable, otherwise the bill may be taken *pro confesso*.

To the Marshal of the Southern District of Mississippi, to execute and return.

W. H. BROWN,
Cl'k.

Marshal's Deputation and Return.

I nominate and appoint A. H. Bobo my special deputy to execute and return this process. Witness my hand and seal this 3d April, 1851.

FIELDING DAVIS, [SEAL.]
Marshal So. D. Miss.

Executed April 7th, 1851.

FIELDING DAVIS,
Marshal.
By A. H. BOBO,
D. M.

Demurrer.

And on the 7th day of June, A. D. 1851, the defendant, by H. T. Ellett, his counsel, filed his following demurrer, to wit :—

UNITED STATES OF AMERICA,
Southern District of Miss., Circuit Court of said District.

In Chancery. May Term, 1851.

The demurrer of Benjamin G. Humphreys, defendant, to the bill of discovery and cross bill of Thomas Leggett, Jr., Samuel Smith, and Smith Lawrence, complainants.

This defendant, by protestation, not confessing, &c., says he is advised that there is no matter or thing in the said bill contained good or sufficient in law to call this defendant to account or answer in this Honorable Court for the same, but that there is good cause of demurrer thereto, and he does demur in law to said bill accordingly, and for causes of demurrer says that the said complainants' bill, in case the same were true, which this defendant does in no wise admit, contains not any matter whereon this Court can ground any decree or give the complainants any discovery, relief, or assistance against this defendant. Wherefore, and for divers other errors and defects, this defendant humbly craves the judgment of this Honorable Court whether he shall be required to make any answer to said bill except as aforesaid, and he prays to be hence dismissed with his costs, &c.

H. T. ELLETT,
Sol'r for Def't.

Clerk of this Court, that said refunding has been filed, be required to pay to the said Benjamin G. Humphreys said sum of $18,852 75, out of the funds in his hands as such receiver, and the receipt of said Humphreys shall be a good acquittance to said receiver therefor,

May 7th, 1850. STEPHEN COCKE.

THE STATE OF MISSISSIPPI.

I, J. T. Simms, Clerk of the Superior Court of Chancery of said State, do certify that the foregoing three pages contain a true and correct copy of the petition of B. G. Humphreys in the case of Thomas M. Baugh & als. *vs.* Jno. M. Carpenter & als. now on file in said county. Also, a copy of the order entered on the minutes of said Court, directing the receiver in said cause, to pay the claim of said Humphreys upon his entering into and filing a refunding bond in the penalty of $37,000, which bond has been duly filed.

Given under my hand and seal of said Court, at Jackson, the 12th day of May, A. D. 1851

[L. S.] J. T. SIMMS, *Clk*,
per L. MIMS, *D. C.*

Subpœna.

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss.

The President of the United States to Benjamin G. Humphreys, greeting:—

For certain causes offered before us in our Circuit Court for the Southern District of Mississippi, sitting in Chancery, we command you that laying all other matters aside, and notwithstanding any excuse, you personally appear at our Circuit Court, in and for the said District, sitting in Chancery, to be held at the town of Jackson, on the first Monday of May next, to answer to a bill of complaint exhibited against you by Thomas Leggett, Jr., Samuel Smith, and Smith Lawrence, complainants in our said Court; and further to do and receive what our said Court shall consider in this behalf. Herein fail not, as you will answer the contrary at your peril.

Witness the Honorable Roger B. Taney, Chief-Justice of the Supreme Court of the United States, at Jackson, the first Monday [L. S. in Nov'r, A. D. one thousand eight hundred and fifty, and in the 75th year of the Independence of the United States.

Issued the 3d day of April, 1851.

The defendants are required to enter their appearance in this suit, in the clerk's office on or before the day to which this writ is returnable, otherwise the bill may be taken *pro confesso*.

To the Marshal of the Southern District of Mississippi, to execute and return.

W. H. BROWN,
Cl'k.

Marshal's Deputation and Return.

I nominate and appoint A. H. Bobo my special deputy to execute and return this process. Witness my hand and seal this 3d April, 1851.

FIELDING DAVIS, [SEAL.]
Marshal So. D. Miss.

Executed April 7th, 1851.

FIELDING DAVIS,
Marshal.
By A. H. BOBO,
D. M.

Demurrer.

And on the 7th day of June, A. D. 1851, the defendant, by H. T. Ellett, his counsel, filed his following demurrer, to wit :—

UNITED STATES OF AMERICA,
Southern District of Miss., Circuit Court of said District.

In Chancery. May Term, 1851.

The demurrer of Benjamin G. Humphreys, defendant, to the bill of discovery and cross bill of Thomas Leggett, Jr., Samuel Smith, and Smith Lawrence, complainants.

This defendant, by protestation, not confessing, &c., says he is advised that there is no matter or thing in the said bill contained good or sufficient in law to call this defendant to account or answer in this Honorable Court for the same, but that there is good cause of demurrer thereto, and he does demur in law to said bill accordingly, and for causes of demurrer says that the said complainants' bill, in case the same were true, which this defendant does in no wise admit, contains not any matter whereon this Court can ground any decree or give the complainants any discovery, relief, or assistance against this defendant. Wherefore, and for divers other errors and defects, this defendant humbly craves the judgment of this Honorable Court whether he shall be required to make any answer to said bill except as aforesaid, and he prays to be hence dismissed with his costs, &c.

H. T. ELLETT,
Sol'r for Def't.

I certify that in my opinion the above demurrer is well founded in point of law.

H. T. ELLETT,
Counsel of Defendant.

UNITED STATES OF AMERICA,
Southern District of Missi., Claiborne County.

Personally appeared before the undersigned Commissioner of the Court aforesaid, in and for the county aforesaid, Benjamin G. Humphreys, the above defendant, who being sworn saith that the foregoing demurrer is not interposed for delay.

BENJAMIN G. HUMPHREYS.

Sworn and subscribed this 30th day of May, 1851, before me,
J. J. PERSON.

Submitted on Demurrer.

And afterwards at the May term, A. D. 1852, of the Court aforesaid, to wit, on the 7th day of May, A. D. 1852, the following entry was made on the minutes, to wit:—

"LEGGETT, SMITH, & LAWRENCE,
vs.
B. G. HUMPHREYS. } 230.

Submitted on demurrer to cross bill for discovery."

Demurrer Overruled.

And afterwards, at the term last aforesaid of the Court aforesaid, to wit, on the 8th day of May, A. D. 1852, the following order was made and entered on the minutes, to wit:—

"LEGGETT, SMITH, & LAWRENCE,
vs.
B. G. HUMPHREYS.

In Chancery. Demurrer to Cross Bill for Discovery.

Ordered by the Court that the demurrer be overruled, and 40 days allowed to file answer."

Answer to Cross-Bill.

And on the 24th day of May, A. D. 1852, the following answer to the cross-bill was filed, to wit:—

In the Circuit Court of the United States in and for the Southern District of Mississippi.

The answer of Benjamin G. Humphreys, defendant, to the cross-bill filed against him for a discovery by Leggett, Smith & Lawrence.

This respondent, saving and reserving all exceptions to the many

insufficiencies of said bill of complaint, for answer thereunto says, that if the facts were true as stated in said bill, that out of the property and debts assigned and transferred by Richard J. Bland to this respondent for his indemnity as surety on the official bonds of said Bland, this respondent had collected and realized more money that required for his full indemnity, he insists that such overplus would be the property of said Bland or his legal representatives, to whom alone this respondent would be accountable therefor. He insists that the complainants in this bill could only be entitled to reach said overplus in equity, in case they were judgment creditors of said Bland; whereas the pleadings and exhibits in the original case show that instead of being judgment creditors of said Bland, said Leggett, Smith and Lawrence are not creditors of Bland at all; the final judgment rendered on the law side of this Court in favor of this respondent and said Bland still remaining in full force as to said Bland. And respondent insists on this point as a bar to any relief in the premises.

Respondent admits that on the third day of March, A. D. 1840, the said Bland conveyed to Volney Stamps as trustee, certain land and negroes mentioned in the deed of that date, which conveyance was made to indemnify this respondent as surety on the official bond of said Bland as sheriff of Claiborne County, in the penalty of $15,000, given in the month of November, 1837, and to indemnify this respondent and G. B. Flowers, who were sureties on the official bond of said Bland given in November, A. D. 1839, and to indemnify and save harmless this respondent and said Flowers against all loss and damage, and all money paid, or charge or expense incurred in consequence of being security on either of said official bonds. All which will more fully appear by reference to a certified copy of said conveyance in trust herewith filed marked Exhibit No. I, and made a part of this answer. Your respondent admits that said property, or such of it as had any existence, or could be found by said Stamps, has been sold by him as trustee; and he states that of the proceeds of such sale, after deducting expenses, he received three-fourths, and the said Flowers or his representatives the remaining fourth, being $3825, to respondent, and $1275 to the said Flowers, which is the whole amount that has been realized from said trust fund, so far as respondent has any knowledge or belief.

Respondent states that, in the summer of 1840, said Bland assigned to respondent for his further indemnity, all the fees then due to him as sheriff of said county, out of which there has been collected by George H. Evans, sheriff, the sum of $2,349 50; by Daniel McDougall, Clerk, the sum of $806 11; and by R. M. Moore, Sheriff, $132 46. Respondent files herewith, a detailed statement of the sums collected by said Evans, and the suits in which they were due, marked Exhibit No. II, and a similar statement of the amounts collected by said McDougall, marked Exhibit No. III, and made parts of this answer. Respondent has no other knowledge of the correctness of these statements than that they are furnished

to him by the said officers, and have been compared with the papers in the suits, as he believes by persons employed by him for that purpose. Respondent has no means of furnishing a list of the cases and several amounts collected by Sheriff Moore, as no statement is returned by that officer, but only the gross amount credited on his books. The above amounts are all that respondent has ever received on account of said fees so far as he knows or believes, except $5 25 paid by A. Cary in Lowery *vs.* Carpenter, and are all that have been collected on account thereof, so far as he has any knowledge.

Respondent admits that, after the recovery by the Planters' Bank of the judgment for $12,325 22, against said Bland and respondent, the said Bland, claiming to be the owner of the original judgment of said Planters' Bank *vs.* P. Hoopes, J. H. Moore, and Jno. M. Carpenter, which was the foundation of the said judgment against said Bland and respondent, did assign all his right thereto to respondent for his indemnity, as respondent had to pay the money. And your respondent claims now to be the owner of said original judgment. He has collected on it from Hoopes or Moore, both of whom are insolvent, and were so prior to the year 1840. Respondent has filed said judgment as a claim against the estate of H. Carpenter & Co., in a creditor's bill now pending in the Superior Court of Chancery of the State of Mississippi, and the commissioner of that court has reported it as a valid claim for the sum of $10,855 93, on the 1st of November, 1840, and bearing interest from that time. The said report has been excepted to, and now stands undetermined before the Chancellor, and it is doubtful whether said claim will be finally allowed, though respondent expects and hopes that it will be allowed. In the mean time, there being a large sum of money of said estate in the hands of the said court, the said sum of $10,855 93, with interest from November 1, 1840, to January 15, 1850, making in all $18,852 75, has been paid over to your respondent, or rather said sum has been deposited in his hands on his having given bond with good security, to refund the same in case said claim shall ultimately be disallowed. In no other way has respondent received or realized anything on said claim, and he insists that he is not to be charged therewith in any account with said Bland, or said complainants in said cross-bill.

Respondent states that said other judgment of said Planters' Bank against R. W. Campbell and others, was of no value in 1840, and has never been since, the defendants having then been, and still being insolvent, and respondent has received no money, property, or thing valuable, or otherwise, on account of it.

Respondent states that no other property or debts of said Bland, other than above stated, were, so far as respondent recollects or believes, transferred or conveyed to respondent to indemnify him as aforesaid. If there ever was anything else transferred, which has escaped respondent's recollection, it was of no value, and nothing has ever been realized upon or for it. Respondent denies that he

has been fully indemnified for his payments on account of his suretyship for said Bland, and avers that a large balance remains due to him. Respondent, in consequence of such suretyship, has been compelled to pay a large amount of costs and counsel fees in suits against him, as such surety, and to incur other expenses arising from said business. He files herewith, a statement of account with said Bland, shewing his payments on account of said suretyship, and the receipts from the funds assigned for his protection and indemnity. Said statement is marked Exhibit No. IV, and made part of this answer. There are, no doubt, other expenses which respondent does not now recollect, which he will add hereafter if found necessary. In this statement respondent has made no interest calculation. Should an account be ordered, he insists that interest on each item, on both sides of the account, should be added from the day of their respective dates, which will make a further difference of several thousand dollars in favor of this respondent.

Respondent insists that the said two judgments in favor of the Planters' Bank against said Bland, and respondent, set out in respondent's original bill in this cause, being for the full penalty of the official bond of said Bland, given in 1837, and being in dollars and cents, the said bond was thereby extinguished, and no other action could be maintained thereon, and no other or further judgment could be rendered upon it; and he insists that it is wholly immaterial to the present suit in what manner or in what funds said judgments have been paid, or whether they have in fact been paid at all; and he insists upon this point as a bar to any discovery or relief in the premises; and not in any manner waiving the same, he says that to the best of his information and belief, the notes issued by the said Planters' Bank were worth, at the time and place of the sale of respondent's property, by the Coroner of Claiborne County, for the satisfaction of said judgments, eighty-five cents in the dollar, and could not have been purchased for less. Respondent not being the purchaser of any of the property, did not at that time have any occasion to purchase any of said Planters' Bank notes, said judgments he supposes were settled by the purchasers of the property to the satisfaction of the plaintiffs.

And respondent having fully answered the said cross bill, prays to be dismissed, &c.

H. T. ELLETT,
Sol'r for Deft.

U. S. OF AMERICA,
Southern District of Miss., County of Claiborne.

Personally appeared before the undersigned, Commissioner of the Circuit Court of the United States for the Southern District of Mississippi, Benjamin G. Humphreys, the within respondent, who being sworn saith, that the facts stated in the foregoing answer, so far as

stated as of his own knowledge, are true; and so far as stated upon the information of others, he believes them to be true.

BENJ. G. HUMPHREYS,

Sworn and subscribed this 17th day of May, A. D. 1852, before me,

JAMES A. MAXWELL, *Com'r Ag.*

Exhibit No. I.

R. J. Bland to B. G. Humphreys and G. B. Flowers. *Deed of Trust.*

This indenture, executed this third day of March, A. D. eighteen hundred and forty, between Richard J. Bland, of the first part, Volney Stamps, of the second part, and Benjamin G. Humphreys and Gouldsborough B. Flowers, all of the County of Claiborne, and State of Mississippi, Witnesseth, That whereas the said Humphreys became bound with the said Bland as one of the sureties in his official bond given as sheriff of said county, bearing date about the tenth day of November, A. D. 1837; and whereas the said Humphreys and Flowers are bound with the said Bland as his sureties in his official, as sheriff of said county, bearing date day of November, A. D. 1839, which obligations they respectively entered into at the request and for the accommodation of said Bland; and whereas it is the purpose, it is the intention of the said parties that they, the said Humphreys and Flowers, shall be each of them saved and kept harmless and indemnified against all loss and damages; or if they should have anything to pay by reason of said obligations, that they may be secured in the means of remuneration; therefore in pursuance of the said intent and purpose, and in consideration of the premises, he the said Bland hath aliened, conveyed, and confirmed, and by these presents doth alien, convey and confirm to the said Stamps, the lots, pieces or parcels of land following, to wit: Lots five and six in square eleven; the undivided half of lots one and two, three, four, five, six, seven, ten, eleven, and the undivided two-thirds of lots eight, nine, and twelve in square twenty-three, all between Main Street and Broadway, in the town of Grand Gulf; also Nos. four and five of section number thirty-three, of township twelve, range four east, containing one hundred and fifty-eight acres; also lot five, in fractional section twenty-six, of township twelve, range three east, containing seventy-six acres; also one undivided one-half of section nineteen, of township twelve, of range four east, and an undivided half of four-fifths of section twelve, of township ten, of range three east, containing five hundred and eighty-five acres, and an undivided half of four-fifths of southeast quarter of section eleven, of township ten, of range three east of the basis of meridian of the lands sold at Washington, Mississippi.

Also an undivided half of the lands in the said County of Claiborne, now in the occupation and cultivation of said Bland, on

which Steven Harmon formerly lived, known as a part of section thirty-four, of township thirteen, of range three east, beginning at a white oak marked xiii. xiii., being the southeast corner of said section; thence north nine west to a red oak marked xiii. xiii.; thence south 78.45 to a dogwood; thence south nine east to a post near a sassafras, being the southwest corner of said section; thence south eighty-five east to the beginning, containing four hundred and fifty-five acres. Also the fractional section thirty-nine, township thirteen, range three east, containing three hundred and six acres. Also lot two, section thirty-three, township thirteen, range three east, and the h half of range three, of section forty-nine, township No. 13, of e three east. Also a lot of ground near the Rocky Springs, bei part of the northeast quarter of section forty-one, township th teen, range four east, including the log-house and out-house built b Doct. Garrett Keim, and bounded by a line commencing at and ranging with two gum trees standing on each side of the path that led to Reynolds' store, and marked W on the west side; thence northwardly, easterly, southwardly, easterly, and again northwardly to the place of beginning; the one of said gum trees that stands south of the path making the said land square, and containing seven and $\frac{75}{100}$ acres, to have and to hold the said several tracts, pieces, or parcels of land, and each and every of them to said Stamps, and his heirs and assigns forever. And the said Bland doth further assign and transfer to the said Stamps all his share in the capital stock of the Bank of Port Gibson, being fifty-eight shares, and the said Bland doth further bargain, sell, and deliver to said Stamps the negro slaves, to wit, Bill, aged forty, Washington, aged twenty-six, Adam, aged seventeen, Mat, aged fourteen, Kitty, aged ten, Jim, aged eight, Nathan, aged five years, Bluford, aged twelve years, John, aged twelve years, Baxter, aged ten, Allen, aged eight, Sally, aged twenty-five years, and her child, old Rhody, Eliza, aged twenty-six, Louisa, aged six years, Henry, aged seven years, Kitty, aged twenty-two years, and her two children, Nelly, aged forty years, Jim, aged thirty-five years, Frances and her child, Judy, aged thirty-eight years, and Polly, aged six years, and Ellick, aged three, and the following seven young hands, whose ages are not known, to wit, Alfred, Anderson, Milton, Jack, Isaac, Henrietta, and Lucinda—To have, and to hold the said negroes, and each of them to him, the said Volney Stamps, and to his heirs and executors forever—but in trust that if the said Benjamin G Humphreys, and the said Goldsborough B. Flowers, or either of them shall at any time pay any money, or be put to any charge or expense in consequence of being security on either of the official bonds aforesaid, or shall be in any way damnified or charged, then the said Stamps after giving ten days' notice thereof, shall take possession of said property, and sell the same, or a sufficiency thereof at public vendue for cash, and out of the proceeds of such sale, pay so much of the said Humphreys or Flowers, to their full indemnity, and so as often as

they or either of them shall have anything to pay, or be otherwise damnified, and also if it shall at any time appear to his satisfaction, that the property of said Humphreys or Flowers, is chargeable with any judgment or execution consequent on their being surety as aforesaid, the said Stamps shall release such charge, by a sale of so much of the aforesaid property as shall be sufficient for that, it being the intent of the parties that the property aforesaid, shall at any and all times be chargeable, and subject to be sold and applied as aforesaid, *until the aforesaid* until the said Humphreys and Flowers shall be each of them fully and completely indemnified from all harm, charge, or liability growing out of the fact of their being surety for Bland as aforesaid, at which time the property, or every part thereof, shall enure to said Bland, and the foregoing conveyance, and bargain, and sale, its purposes having been fulfilled, shall be void and of no further effect.

In witness whereof we have hereunto set our hands and affixed our seals this 3d March, 1840.

R. J. BLAND. [SEAL.]
VOLNEY STAMPS. [SEAL.]
BENJ. G. HUMPHREYS. [SEAL.]

THE STATE OF MISSISSIPPI,
Claiborne County, ss.

The above named Richard J. Bland, and the said Volney Stamps and Benj. G. Humphreys, came personally before me the undersigned justice of the peace in and for said county, and severally acknowledged that they signed, sealed and delivered the above Deed of Trust on the day and year, and for the purposes therein named.

Given under my hand and seal this 3rd day of March, 1840.

T. D. JEFFERS, *J. P.* [SEAL.]

Rec'd for Record 4th March, 1840, and truly recorded.

STATE OF MISSISSIPPI,
Claiborne County, ss.

I, Jas. A. Gage, clerk of the Probate Court in and for said county, do hereby certify that the foregoing is a true and perfect copy of the original Deed of Trust made by R. J. Bland to Humphreys and Flowers, as the same now appears of record in my office, in book T, pages 467, 468, 469.

Given under my hand and seal of office at Port Gibson, this 2d day of May, A. D. 1851.

[L. S.] JAS. A. GAGE, *Cl'k.*

Exhibit II.

An account of fees due Sheriff Bland, collected by George H. Evans, sheriff, and paid over to B. G. Humphreys.

Harwood, Newman & Co. *vs.* J. J. Guion,	$1 50
Gasquet, Parish & Co. *vs.* Alex. Martin, Jas. Allison and *als.*,	27 69
Grand Gulf Bank *vs.* John W. Thomson,	4 00
Officers of Court *vs.* Parmelia Fauver,	50
Same *vs.* Sarah Jackson,	50
Macbeth & McDougall *vs.* George W. Richey,	2 25
Muir, Moore & Co. *vs.* John M. Wright,	2 25
David McCalb *vs.* Jas. M. Powell, Jas. Hutchins,	4 25
Same *vs.* Same,	4 25
Same *vs.* Same,	4 25
John Gunley *vs.* Sawyer & Wilroy,	6 25
William T. Abram *vs.* Josiah W. Fisher,	2 75
J. Callahan *vs.* J. A. Dennis,	2 75
J. O. Pierson & Co. *vs.* Jas. E. Calhoun,	4 00
Watt, Burke & Co. *vs.* Jesse W. Griffin, Jas. Patton, W. Gardner,	45 08
Arther & Brown *vs.* Taylor & Eddins,	6 25
Samuel Sticker *vs.* Moses D. Shelby,	2 75
Thomas J. Young *vs.* A. H. Peck, M. D. Shelby,	3 25
Agricultural Bank *vs.* John Borth, S. Bridgers and *als.*,	75 10
Joseph W. Robertson *vs.* Jno. D. Vertner, Vans M. Sullivan,	10 66
Same *vs.* Jno. D. Vertner,	11 40
Grigg & Elliott *vs.* J. O. Pierson & Co. and *als.*,	5 25
R. & G. Ellig *vs.* George S. Clarke,	2 50
George O. Hall *vs.* Muir, Moore & Co. H. J. Butterworth,	13 83
Watt, Burke & Co. *vs.* Shem Thompson,	28 92
Francis Murdock's Exr's *vs.* Jas. Hendebert, Jas. W. King,	9 50
L. P. Maxwell *vs.* Hinchy Freeman,	3 75
Grand Gulf Bank *vs.* A. Tunstall, Muir, Moore & Co. and *als.*,	18 53
Richard Shillings *vs.* E. W. & W. Turpin,	22 02
James Moore, use, &c. *vs.* Henry W. Barnes,	3 75
Johnson, Chapman & Co. use, &c. *vs.* Lemuel Sawyer,	3 00
William Robinson *vs.* T. Hutchins,	2 25
J. & H. J. Butterworth *vs.* Stephen Middleton, J. Wallace,	9 13
William R. Buck *vs.* S. J. & S. Middleton,	5 33
Amount forward,	$349 44
Jos. H. Moore, use, &c. *vs.* Francis B. Lee,	2 25

Moore & Nicolls *vs.* Luster, Harper & Carpenter,	8 00
A. Tunstall *vs.* G. H. Headrick, T. H. Wade,	8 00
J. H. Maury, use, &c. *vs.* Thomas H. Wade,	2 75
Agricultural Bank *vs.* Vandorn's Adm'rs,	24 50
Same *vs.* Shaifer, Putnam & Sevier,	31 66
J. O. Pierson & Co. *vs.* Lewis Coon, W. R. Buck,	8 22
Moore, Burroughs & Co. *vs.* Coon & Brown,	8 23
Joseph Holt *vs.* Same,	8 17
Sam'l Herman & Son *vs.* Dorsey & Rusk,	41 52
William Davis *vs.* Amos Whiting's Administrators,	3 75
Ira J. Hedden *vs.* Same,	6 25
Philip Ault *vs.* Same,	7 75
H. & H. O. Anderson, use, &c. *vs.* Same,	5 25
George Morton *vs.* Bayley, Guardian of McVoy,	2 50
Agricultural Bank *vs.* Montgomery, Briscoe & Patterson,	5 50
Planters' Bank *vs.* Wm. McCluer, Anderson & Neill,	13 63
John J. Fisher *vs.* George Nicolls *et als.*,	9 00
Benj. Kenningham *vs.* Prince & Humphreys,	8 25
Planters' Bank *vs.* Hodge, Coleman & Lape,	20 81
A. B. Maddox *vs.* Josiah Rundell,	2 25
Grand Gulf Bank *vs.* Jos. H. Moore & Co. *et als.*,	8 75
J. & J. Marlott *vs.* Lake & Petty,	4 00
David Kenley *vs.* S. Vanbibber, Gar'ee of Jacob Hoover,	1 00
J. J. & G. W. Kester & Co. *vs.* John S. Bradshaw *et als.*,	23 88
Hoopes & Purvell, use, &c. *vs.* Noel, Wells, Thomson & Barlow,	10 97
Agricultural Bank *vs.* Elijah L. Clarke *et als.*,	4 75
Same *vs.* Same,	9 25
White, Turpin & Nephew *vs.* Goodrich & Wade,	12 95
The State *vs.* William Bridges,	75
James R. Wright *vs.* James S. Hamilton *et als.*,	13 28
Same *vs.* Same,	10 81
Wm. C. Hamilton, Adm'r, &c. *vs.* J. W. Choat & J. H. Kenley,	6 28
Glendy Burke *vs.* S. & E. Dorsey,	63 24
The State *vs.* Alfred Thornton,	1 50
Pearce Noland *vs.* H. F. Smith, C. B. Clarke,	11 00
Same *vs.* Same,	9 54
Planters' Bank *vs.* Hughes & Hoopes,	58 73
Same *vs.* Hoopes & Hill,	12 06
Same *vs.* Hoopes & Rowland,	19 84
Alexander Martin *vs.* Wm. King's Heirs,	8 00
Grand Gulf Bank *vs.* Hoopes & Gooch,	77 88
Reynolds, Marshall & Co. *vs.* David G. Humphreys *et als.*,	36 04
John S. Bradshaw, use, &c. *vs.* James McAlister, James Murphey, Jr.,	2 25
James H. Kenley *vs.* Jno. Neill, J. W. Choat, W. G. Renaud,	15 95

Hoopes & Purnell *vs.* Jno. A. Roberts, Wm. Gardner, Peter Hedrick,	12 24
Tolls & Dickerman *vs.* John D. Vertner,	25
E. G. Peyton *vs.* J. D. Vertner, A. A. Green, P. Hoopes, Muir, Moore & Co. *et als.*,	12 50
John J. Fisher *vs.* Ann J. Singleton,	2 50
Maupin & Parker *vs.* Ira J. Hedden,	11 15
Thomas Stone *vs.* B. G. Bartlow,	2 75
S. C. Keyes *vs.* James Boyd,	2 75
George Lake *vs.* A. B. Maddox,	2 75
Officers of Court *vs.* Lewis Williams,	2 00
John Gurley *vs.* John Neill,	2 25
Butler & Forbes *vs.* Marcus A. Watson,	7 25
Stamps, Irish & Maury, Ex'rs, &c. *vs.* Jas. Isaiah & M. A. Watson,	2 25
The State *vs.* Isaiah Watson,	4 00
Summers & Watt, use, &c. *vs.* Thos. Berry, Jno. Grissom,	3 75
Com'l Bank, Rodney, *vs.* Thomas Berry,	2 25
Survivors of N. & J. Dick & Co. *vs.* T. Berry, Jno. Murphy, Moore B. & Co.,	8 75
Com'l Bank, Rodney, *vs.* T. Berry, L. C. Harris, F. Stanton,	2 25
Maupin & Parker *vs.* T. Berry, Miles Luster,	5 00
Burke, Watt & Co. *vs.* Alexander & G. G. Toney,	1 75
B. F. Watkins, use, &c. *vs.* Joel Perkins, M. W. Bland,	2 25
Grand Gulf Bank *vs.* J. D. Bridger, H. & H. O. Anderson, Alexander McFater *et al.*,	9 25
Samuel Walker *vs.* E. L. Clarke,	2 50
Moore & Nicolls *vs.* Piers, Sawyer, Wilroy, Harper *et als.*,	10 50
Parkinson & Sevier *vs.* M. A. Watson, H. W. Barns,	9 02
Frederick Graff *vs.* John Neill, James Derrah,	25
Jno. D. Vertner, use, &c. *vs.* Isaiah Watson, J. A. Dennis,	1 75
Spooner, Forbes, Senr., use, &c. *vs.* A. Davis, H. T. Ellett, J. J. Person, Wm. Sellers *et al.*,	1 75
Amount forward,	1126 04
Edward P. Forniquet *vs.* Joseph Bowman,	3 75
Hodge & Merrifield *vs.* Bush & Elmer, G. A. Briscoe,	3 25
James P. Parker *vs.* Benjamin C. Cook,	2 25
D. J. Millard *vs.* Jno. Patterson, S. Thompson,	6 25
Smith Turner, use, &c. *vs.* Jno. Patterson & P. Briscoe,	1 75
Abeal Miles *vs.* Same & Same,	5 25
Moore & Nicolls *vs.* Miles Luster, H. & H. O. Anderson,	8 00
John B. Coburn *vs.* James Hendebert,	3 25
Joseph Holt *vs.* James Moore,	2 25
Howard & John *vs.* W. C. Tate, P. H. Petty,	7 83
Ezra Marble *vs.* John Stamps, Administrator,	3 00

Bank of Port Gibson *vs.* Jas. Patton, R. Patton, J. H. Kenley,	5 25
John Cook *vs.* Wilson F. Dillon,	2 50
Philip Bether *vs.* Samuel Lynch,	6 75
Wm. F. Abraham *vs.* Burke & Fisher,	3 50
Atwood & Co. *vs.* A. Tunstall,	2 00
Robert H. Bayley, use, &c. *vs.* Newell, Ragsdale & Parks,	5 25
James H. Kenley *vs.* James Cooper,	6 00
Waldron, Thomas & Co. *vs.* Butler & Forbes, Hodge & Merrifield,	6 25
Rundell, Abraham & Co. *vs.* J. J. & H. M. Booth,	4 25
Cook & Flattaw *vs.* McIntyre & Poor,	50
Kitchell & Gray *vs.* Charles W. Wilson,	3 25
Whiteman & McFarren *vs.* John W. Thomson,	2 50
Young & Thrasher *vs.* Hendebert & Woodward,	1 75
Same *vs.* Hendebert & Taylor,	3 75
John Rail *vs.* H. J. Wilson,	3 25
Grand Gulf Bank *vs.* Newell, Ragsdale & Bridges,	6 25
George W. Richey *vs.* James Davis,	2 25
David G. Humphreys *vs.* Francis Hume,	3 25
Levy Lockey *vs.* William Bridewell,	25
Orr & Sater *vs.* John S. Potter,	2 25
Bush & Elmer *vs.* Madison Organ,	2 50
George W. Reynolds *vs.* William H. Puckett,	2 00
N. McDougall *vs.* John D. Vertner,	3 50
Elias Budger *vs.* Raine & Bradshaw,	9 25
James Cooper *vs.* Tomlinson, Patton, Collins *et als.*,	37 25
The State *vs.* Same,	21 25
R. & S. Elly *vs.* Wells, Person & Clarke,	4 00
Shipman, Crane & Co. *vs.* Nelson Vandeventer,	2 50
Hunter, Murphy & Co. *vs.* Holt, Compton & Oldham, Jones & Ballard *et als.*,	8 50
John Rains *vs.* Shaw, Evans & Hoopes,	45 43
Robert Scott *vs.* P. Spotswood, S. B. Curry,	75
Grand Gulf Bank *vs.* Elias Bridgers,	3 25
L. P. Maxwell *vs.* H. M. Booth, J. J. Booth,	2 25
Thomas J. Young *vs.* Orr & Sater, Sharkey & Klapser,	4 75
R. H. Bayley *vs.* Cynthia & A. T. Thompson,	4 25
Caleb Jones *vs.* Daniel Willis, G. W. Scott,	2 25
Abraham Rundell & Co. *vs.* H. M. Booth, J. J. Booth,	1 75
George Henderson *vs.* R. B. Russell, W. R. & S. L. Lackey,	6 50
J. & H. J. Butterworth, use, &c. *vs.* J. Rundell, J. M. Scanland *et als.*,	14 50
Grand Gulf Bank *vs.* Israel Loring, Volney Stamps,	5 75
George Morton *vs.* F. B. Ragsdale,	1 75
Bank of Port Gibson *vs.* E. L. Clarke, Wm. Clarke,	14 88

Robert H. Bayley, use, &c. *vs.* M. A. & J. J. Mitchell, H. & H. O. Anderson,	9 00
John W. Thomson *vs.* A. J. Bridewell,	2 00
J. O. Pierson & Co. *vs.* James W. King,	6 00
Parkinson & Sevier, use, &c. *vs.* L. Williams, John Hays,	2 25
Henderson & Thompson *vs.* R. B. Russell & wife, W. R. & W. L. L. Lackey,	4 75
Brockway & Ely *vs.* Thomas Berry,	2 25
Grand Gulf Bank *vs.* Levin & Thomas Disharoon,	10 25
A. Rollins, use, &c. *vs.* Joseph Callender,	2 75
V. Stamps *et al. vs.* A. Tunstall *et al.*,	11 00
A. B. Maddox *vs.* Josiah Rundell,	2 25
Francis Benovoir *vs.* John Hays, J. W. Thompson,	3 25
Wells & Person *vs.* Shem Thompson,	1 75
J. & L. Brewster *vs.* R. W. Campbell, Summers & Watt, M. W. Bland,	9 94
R. R. Sharkey *vs.* R. C. Russum, Weatherby, W. W. Barnes,	8 25
Gabriel Duvall *vs.* Elizabeth Moore,	4 25
Miles Luster, use, &c. *vs.* George Lake,	4 25
Compton & McCall, use, &c. *vs.* P. Briscoe, Sam'l Briscoe,	2 55
Eugenia Dillard, Admi'x *vs.* Ater Davis,	1 75
J. O. Pierson & Co. *vs.* Jas. McCluer, Jas. McCluer, Jr.,	1 75
Amount forward,	1532 92
John R. Balls *vs.* Read & Vanbibber, D. K. Oesler,	4 50
Jno. M. Scanland *vs.* R. Robinson, W. McCreary, Jno. Hays,	2 25
Stebbins, Lockwood & Co. *vs.* Joseph Nicolls,	3 25
J. O. Pierson & Co. *vs.* Isaiah Parker, J. Baggerly, M. B. Ross,	8 75
Allen Buckley, use, &c. *vs.* J. W. Thompson, J. Hendebert,	3 75
Henry Dickinson, use, &c. *vs.* J. Hendebert, J. W. Thompson,	3 75
J. J. Kester & Co. *vs.* J. B. Bradshaw & Co., A. Dunstall, J. W. Thompson,	24 75
Coml. Bank Rodney *vs.* Shem Thompson, R. Valentine,	5 25
Levi C. Harris, use, &c. *vs.* Shem Thompson, Jas. Hoel, J. Patterson,	4 50
Watt, Burke & Co. *vs.* Jacob Segrist,	40 32
Henry Rider *vs.* Orr and Sater, J. L. Klapser,	6 35
Moore, Burroughs & Co. *vs.* Shem Thompson, J. Patterson,	2 00
Grand Gulf Bank *vs.* H. and H. O. Anderson,	5 25
Watt, Burke & Co. *vs.* M. A. Mitchell, E. Davenport, Bland, Bailey,	6 25
R. Strong *vs.* John G. Siddon,	25
Henry T. Wilson, use, &c., *vs.* P. Hedrick, Jos. Rush,	1 75
Planters' Bank *vs.* W. Briscoe, P. Hoopes, J. S. Gooch, T. J. Green,	43 34

John M. Scanlard, use, &c., *vs.* C. S. Dyer,	3 25
Alfred Clark *vs.* Curet and Watson,	6 50
Planters' Bank, use, &c. *vs.* J. L. Foote, T. D. Jeffers, A. Rollins,	4 25
Grand Gulf Bank *vs.* E. L. Clarke, C. B. Clarke, W. Clark,	3 75
Coml. Bank, Natchez, *vs.* Same,	5 05
Bank, Port Gibson *vs.* I. M. Newell, S. Dorsey, Jas. Harper, R. R. Sharpey,	7 25
Richd. Bledsoe, use, &c. *vs.* G. G. Toney, Alex. Toney,	1 75
Walter Rossman, use, &c. *vs.* W. Dotson, C. B. Clarke,	2 25
Summers & Watt, use, &c. *vs.* E. L. Clarke, C. B. Clarke, W. Rossman,	4 25
Samuel Locke & Co. *vs.* G. W. and R. H. Smith, Dan. McDougall,	11 16
Bank of Port Gibson *vs.* Walker, Magruder, Purnell,	5 14
Orr & Sater *vs.* Porsey & Foote, Wm. Beatty,	5 50
Grand Gulf Bank *vs.* S. Dorsey, Moore & Hoopes, Harper & Carpenter,	9 00
Charles Clarke *vs.* J. T., W. C. and E. H. Dorsey,	3 25
Waldron, Thomas & Co. *vs.* S. Dorsey, Moore, Burroughs & Co.,	6 75
Geo. W. Reynolds *vs.* W. C. and E. H. Dorsey,	6 32
Agricultural Bank *vs.* S. Dorsey, Hughes, *et al.*,	9 75
Saml. J. Cook *vs.* John T., E. H., and W. C. Dorsey,	3 25
Jno. M. Carpenter, Sen., *vs.* Owings and Saml. Dorsey,	4 00
Pearson, Hume & Co. *vs.* V. W. Brock,	1 75
Charles A. Pearson *vs.* Same,	2 00
J. E. P. Bacon *vs.* John G. Hastings,	2 50
Same *vs.* John J. Fisher,	13 75
Grand Gulf Bank *vs.* M. Luster, Hendebert, M. O. Hopkins,	9 90
Thos. D. Jeffers *vs.* James A. Dennis,	2 25
Same *vs.* David Kenley,	1 25
Downer & Co. *vs.* Harper & Carpenter,	3 25
A. Kirkman & Co. *vs.* P. H. Petty,	1 75
Same *vs.* Same,	1 75
Macbeth & McDougall *vs.* Lewis Matthews, John Whiteman,	2 25
Lewis Stowers *vs.* Summers & Watt, D. H. McIntyre, J. Rundell,	7 75
Samuel Scott *vs.* H. and H. O. Anderson,	8 00
Summers & Watt *vs.* Pearson & Hume and *als.*	5 50
Benj. Garvin *vs.* Jos. H. Moore & Co. and *als.*,	14 50
W. and H. Weed & Co. *vs.* P. Hoopes,	2 25
Grand Gulf Bank *vs.* Jno. Hays, Thomson, Bush, Williams,	10 75
Virgil McKnight *vs.* Muir, Moore & Co.,	4 00
Caleb Cope *vs.* P. H. Pettey,	6 25
Robert Tolard *vs.* Same,	3 25

James Ramsey *vs.* George D. Brown,	2 25
Robt. B. Jones *vs.* Geo. H. D. Brown,	2 25
Woodward & Armstrong *vs.* George Greer,	3 75
Grand Gulf Bank *vs.* S. S. Neelly, D. S. Humphreys,	3 25
J. and A. Lowery *vs.* Wells & Person,	3 75
Planters' Bank *vs.* P. H. Petty, George Lake,	48 58
Grand Gulf Bank *vs.* W. and D. H. Turpin, T. G. McIntyre,	5 75
James S. Young, use, &c. *vs.* Mary Goza, *et al.*,	12 11
H. and H. O. Anderson & Co. *vs.* A. Rollins, Jno. S. Gray,	1 75
S. F. R. Abbay *vs.* Daniel Willis,	6 75
Jas. M. Anderson *vs.* W. H. Puckett, E. L. Clarke,	4 75
S. F. R. Abbay *vs.* Daniel Willis,	2 25
Kitchell & Gray *vs.* J. O. Pierson & Co., Elig & Spencer,	8 50
Josiah J. Williams *vs.* Kitchell and Gray, Alfred Clarke,	4 75
Planters' Bank *vs.* J. A. and W. L. Gibson, J. Regan, E. Haring,	8 25
Planters' Bank *vs.* Alex. McGillvany, S. Harrison, D. H. McIntyre, W. H. Hamer,	7 25
Amount forward,	2032 19
Planters' Bank *vs.* H. and H. O. Anderson, P. Briscoe, J. H. Newman,	7 00
Orr & Sater, use, &c. *vs.* James Grafton,	2 25
J. P. Taylor and Sarah Phillips *vs.* Curtis Wood, H. M. Booth,	3 25
Samuel Gustin *vs.* John B. and Isaac W. Conger,	2 25
Mississippi Union Bank *vs.* P. and D. H. McIntyre,	4 00
John A. Watkins *vs.* Jno. Crow, Geo. A. Briscoe,	2 25
Grand Gulf Bank *vs.* Nancy and Levi Thomson, Jas. Crane, R. Valentine,	5 50
James A. Throckmorton *vs.* E. L. Clarke, C. B. Clarke,	2 25
Planters' Bank *vs.* R. T. Archer, R. Parkinson, Corn. Randolph,	6 25
Robert B. Russell *vs.* Jas. and Thos. J. Hutchins,	1 75
Benj. F. West *vs.* Jno. B. and Isaac W. Conger,	4 50
Saml. Hildeburn *vs.* A. Rollins, Saml. Walker,	1 75
Foster & Easton, use, &c. *vs.* McIntyre, Poor & Co., D. H. McIntyre,	6 00
Mason, Mitchell & Pike *vs.* Charles B. Clarke, Wm. Dotson,	1 50
Cornelius Haring, use, &c. *vs.* C. B. Clarke, Jas. A. Hutchinson,	2 25
B. M. Steadman & Co., use, &c. *vs.* Same,	1 50
H. & H. O. Anderson & Co. *vs.* George Lake, David McCaleb,	2 25
Jacobus & Garthwaite *vs.* P. McIntyre, F. J. Poor, D. H. McIntyre,	5 25

H. & H. O. Anderson & Co. *vs.* C. W. Wilson, Benj. W. Thomson, 2 25
Compton & Oldham *vs.* C. B. Clarke, Jas. A. Hutchinson, 2 25
Grand Gulf Bank *vs.* Jno. D. Bridger, H. and H. O. Anderson, 5 75
Crawford, Harper & Lincoln *vs.* P. McIntyre, D. H. McIntyre, 2 25
Grand Gulf Bank *vs.* W. and D. H. Turpin, W. Bridger, C. D. Hamilton, 6 75
George Morton *vs.* F. B. Ragsdale, 1 75
Grand Gulf Bank *vs.* J. Burroughs, J. T. Marye, J. Venables, P. Hoopes, 4 75
John Reynolds *vs.* P. McIntyre, D. H. McIntyre, 4 00
J. O. Pierson & Co. *vs.* C. J. Smith, John Tomlinson, 11 37
Moore, Burroughs & Co. *vs.* Jno. Tomlinson, W. V. Collins, 2 50
John B. Flowers *vs.* Hinchey Freeman, Robt. Strong, 25
Josiah B. Sugg *vs.* John R. Dean, 4 25
Hodge & Merrifield *vs.* Same, 6 02
Bank of Port Gibson *vs.* Same, 4 75
Planters' Bank *vs.* Same, 8 25
Williams & Wilson, use, &c. *vs.* Robert Jelks, T. G. McIntyre, 1 75
N. McDougall, Judge of Probate *vs.* Funstall & Anderson, 2 25
Curry & Edwards *vs.* G. A. Wyche, 2 25
Moore, Burroughs & Co. *vs.* L. F. Moreland and Emily Moreland, 3 25
J. Calahan *vs.* Ichabod Watkins, 1 75
James Hoel *vs.* Elizabeth Allen, James Shoemart, 3 75
F. B. Lee *vs.* Henry Kelly, 1 00
Kitchell & Gray *vs.* James H. Kenley, 2 00
Same *vs.* D. Kenley, J. H. Kenley, Jas. Patton, 5 50
Same *vs.* D. Kenley, J. W. Choat, 50
Elias Bridgers *vs.* Williamson Roberts, 4 25
Joe Davis *vs.* W. W. Gains, 2 00
Harper, Carpenter *et al. vs.* Grand Gulf Bank, 8 25
William Beaty *vs.* Alfred T. Thompson, 2 25
Com'l Bank of Rodney *vs.* Magruder, Martin, Campbell & Bayley, 9 75
Parkinson & Sevier *vs.* James H. Kenley, 2 75
James H. Kain, use, &c. *vs.* Jas. H. David and Thos. H. Kenley, 7 41
George Morton *vs.* David and Jas. H. Kenley, 8 25
J. O. Pierson & Co. *vs.* Jas. L. Booth, C. B. Clarke, 2 75
Planters' Bank *vs.* James Crane, R. Valentine, 2 75
Hodge & Merrifield *vs.* Noel Wells, Jas. M. Smith, 14 83
James G. Heard *vs.* T. Eddins, D. H. McIntyre, 3 75

Eugenia Dillard, Adm'x *vs.* Isaiah, M. A. and James Watson,	1 75
H. & H. O. Anderson & Co. *vs.* Same,	2 25
Same *vs.* Same,	2 00
Alfred Cox, use, &c. *vs.* Same,	2 50
Grand Gulf Bank *vs.* Same,	7 75
J. O. Pierson & Co. *vs.* Same,	2 50
Parkinson & Sevier *vs.* Noel Wells and A. Rollins,	12 07
Erastus Case *vs.* John Patterson, P. Briscoe,	2 25
Hodge & Merrifield *vs.* Geo. Hill, Alex. Torry, P. H. Torry,	1 75
S. F. R. Abbay *vs.* Geo. Hill, J. G. Jones, T. H. Wade,	2 25
J. O. Pierson & Co. *vs.* Tyre, Lilly, Garee,	50
Job B. Richards, use, &c. *vs.* M. W. Bland, Wm. Dotson,	5 24
Amos Swain, use, &c. *vs.* H. M. Posey & Co., W. T. Purnell,	11 35
R. R. Sharkey, Adm'r *vs.* Wm. T. Purnell,	75
Daniel Vertner *vs.* Benj. F. Stockton,	3 75
John Harmon, Adm'r *vs.* Benj. Kenningham, R. M. Ellis,	2 00
Rush & Elmer, use, &c. *vs.* Mary Goza,	2 25
Amount forward,	2316 98
Eugenia Dillard, Adm'x *vs.* Hendebert & Davis,	1 75
Same *vs.* W. H. and J. M. Puckett,	2 00
Same *vs.* D. & J. H. Kenley,	6 50
Geo. W. Sevier, use, &c. *vs.* S. S. Neely, R. F. Moore,	2 25
Bigelow, Canfield & Co. *vs.* S. W. Brinson, T. H. Wade,	2 25
Grand Gulf Bank *vs.* J. O. Pierson, D. Bush, Simon Rundell, D. J. Ely,	7 75
Robt. R. Sharkey *vs.* Joseph Leroy,	10 02
	$2349 50

Exhibit III.

Benjamin G. Humphreys for R. J. Bland
in acc't Dan. McDougall, *Clk.*

1841.		
March 2.	By fees, Ex. 2,129 to May Term, 1841	4 25
3.	Parkinson *vs.* Putnam,	1 75
6.	Johns *vs.* Sawyer,	3 00
10.	Thorman & Nantz *vs.* Berry,	3 50
18.	Stanysley *vs.* Wood and *als.*,	7 25
24.	U. S. Bank *vs.* Irish,	50
27.	Brewster *vs.* M. Burroughs & Co.,	5 50
29.	Dillon *vs.* Bouland,	50
April 10.	2 cases, McLeod *vs.* Cooper,	6 00
19.	Morton & Newell *vs.* Ragsdale,	45 23
23.	Bk. P. Gibson *vs.* Carpenter and *al.*	7 25

26.	Turner & Grise *vs.* Ballinger,	25
28.	Watt, Burke & Co. *vs.* Watson,	54 58
May 1.	Franklin *vs.* Singleton,	3 12
	Conklin *vs.* Jones,	1 75
	Watson *vs.* Same,	1 75
	Smith, use, *vs.* McLeod and Lasse,	4 25
	Adams *vs.* Helm and *als.*,	5 10
9.	Union B'k *vs.* 3 cases Archer and *als.*,	6 25
	Brewster *vs.* Compton,	3 75
	Brewster *vs.* Compton & Oldham,	4 75
13.	Murdock *vs.* Vertner and *als.*,	3 50
	G. Gulf B'k, 2 cases, *vs.* Anderson and *als.*,	19 50
21.	U. S. B'k *vs.* Douglass,	3 75
22.	G. G. B'k *vs.* Anderson and *als.*,	6 75
	Powell *vs.* Mosby,	2 75
	Brown, Bro. & Co. *vs.* Harper, C. & Co.,	3 25
	Bayley, use, &c., *vs.* Douglass, Ex'rs,	3 75
	Dillon & Tur *vs.* He'y Kendall,	9 75
26.	Fatherel *vs.* Regan,	75
31.	Planters' B'k *vs.* Humphreys & McIntyre,	2 62
June 4.	Taylor & Co. *vs.* Hastings and *als.*,	6 25
	Forward,	$232 01

14.	Costs, Rembert *vs.* Mitchell,	2 00	
	Taylor *vs.* Same,	1 75	
	Moore, B. & Co. *vs.* C. W. Wilson,	1 75	
			5 50
18.	Finley *vs.* Douglass, Ex'rs,	25	
28.	Cochran *vs.* Little, Shaw, &c.,	75	
	Parker, Johnson, &c. *vs.* Harper, &c.,	3 50	
	Kelly *vs.* Kenley,	2 00	
	Sevier, use, *vs.* Moore,	2 25	
	Same *vs.* Booker,	2 25	
	Young & Co. *vs.* Hendebert,	3 50	
	Heath *vs.* Dennis,	1 75	
	Fusby *vs.* Douglass, Ex'rs,	4 50	
	vs. C. W. Wilson,	1 75	
Sept. 15.	Ely *vs.* Parkinson & S.,	3 50	
	Com'l B'k Rodney *vs.* Coleman,	6 25	
			$32 25
	Do. *vs.* do.	2 25	
	Do. *vs.* do.	3 25	
	Do. *vs.* Lape and *als.*,	4 25	
	Do. *vs.* do.	3 25	
Nov. 6.	Minor *vs.* Walker,	2 25	

16.	Sharkey *vs.* Kilcrease,	2 25	
19.	Same *vs.* Davenport,	7 75	
20.	Taylor *vs.* Smith & Tomlinson,	10 63	
23.	Hansborough *vs.* Grafton,	2 25	
27.	R. R. Sharkey, Ad'm. *vs.* Regan,	1 75	
			39 88
Dec. 1.	J. H. Moore, &c. *vs.* Magruder,	2 25	
1842.	B'k P. Gibson *vs.* Dillon & Grissom,	5 25	
Jan. 7.	2 Exe'ns, No. 586 and 587 *vs.* Agl. Bank,	22 50	
24.	Sharkey *vs.* Dean and *als.*,	3 25	
	Same *vs.* Carpenter's Ex'rs,	2 25	
27.	4 cases *vs.* N. & J. Dick & Co.,	37 37	
Feb'y 1.	State *vs.* Moody,	1 50	
2.	Sharkey *vs.* Ellett & Pierson,	4 25	
14.	Agl. Bank *vs.* Nicolls and *als.*;	6 25	
			84 87
1842.		Am't forward,	$394 51
Feb'y 14.	Costs, Agl. B'k *vs.* Carpenter and *als.*,	4 75	
	Do. *vs.* Short and *als.*,	1 75	
	Do. *vs.* Carpenter's Surv's,	7 25	
	Do. *vs.* Hughes and *als.*,	9 25	
			$23 00
	Do. *vs.* Maxwell,	9 25	
	Do. *vs.* Magruder,	7 25	
	Do. *vs.* Dorsey,	10 25	
	Do. *vs.* Gaff and *als.*,	6 75	
	Do. *vs.* Moore & Nicholls,	9 25	
	Do. *vs.* Moore,	7 25	
	Do. *vs.* Carpenter's Surv's,	7 25	
	Do. *vs.* Tomlinson and *als.*,	6 75	
	Do. *vs.* Smith, &c.,	10 25	
	Do. *vs.* Hoopes,	2 25	
	Do. *vs.* Bowman,	25	
	Do. *vs.* Berry and *als.*,	4 75	
	Do. *vs.* Hughes, Crane and *als.*,	7 25	
	Do. *vs.* Hoopes & B.,	1 75	
	Do. *vs.* Haley, Grissom and *als.*,	2 50	
28.	English *vs.* Neill,	1 75	
			$94 75
	Hodge & M. *vs.* Jeffries,	1 75	
	Same *vs.* Moore,	2 25	
	Hodge & M. *vs.* Weatherby	1 75	

	Bush & Elmer *vs.* McClure,	2 25	
	O'Kelly *vs.* Foster,	3 25	
May 12.	M. B. & Co. *vs.* Regan, Ad'm.,	2 25	
14.	G. G. B'k *vs.* E. Moore *et als.*,	4 25	
Feb'y 18.	Turpin *vs.* Douglass Ex'rs,	3 75	
	Hastings *vs.* Haring,	2 25	
	Hildeburn *vs.* Foster *et al.*,	5 75	
	Bull *vs.* Vertner,	2 25	
	Randolph *vs.* Clarke,	2 25	
	Summers *vs.* Kelly,	25	
			$34 25
	By am't forward,		$546 51
April 1.	Maury, use Stamp *vs.* Thomson and *al.*,	3 75	
	Do. *vs.* Foster and *al.*,	3 75	
	Do. *vs.* A. Tunstall,	7 25	
29.	Stowers *vs.* Spencer,	2 25	
May 1.	Sharp *vs.* Renard and *al.*,	3 75	
			$20 75
20.	Booth *vs.* Wood,	4 00	
	Singleton *vs.* Cooper and *al.*,	5 75	
23.	Union B'k *vs.* Reid & Van Bibber,	25	
	Do. *vs.* do.	1 75	
11.	Broom *vs.* Hays,	2 25	
13.	Cligham *vs.* F. Carson,	2 25	
July 12.	Sharkey Adm. *vs.* McDougall,	3 25	
	9 cases *vs.* Sundries,	42 00	
14.	Am't rec'd of sh'ff Newman, part in blue back notes depreciated,	112 75	
	Am't, 11 cases, Nos. 495, 498, 500, 476, 488, 472, 471, 470, 464, 474, 477,	35 50	
	Harding *vs.* Magruder,	2 25	
			$212 00
Sept. 26.	Hoel *vs.* Russum,	1 75	
	Lee *vs.* Kealey, Adm'r,	1 76	
Nov. 1.	Taylor *vs.* Ballard,	7 00	
3.	Hodge & M. *vs.* Rundell and *als.*,	5 25	
	Do. *vs.* Hogg, Adm'rs,	1 75	
	Moody *vs.* Vertner.	2 25	
11.	Spencer *vs.* Sharkey, Nos. 676, 677, and 678, to Nov. '42, 2581, 2333, 1846, 1845, Nov. T., 141.	8 51	

	Agl. Bank *vs.* Taliaferro,	3 75	
Feb. 16.	Powitt *vs.* Kenley,	3 50	
	Archer, Admr. *vs.* Jeffries,	2 00	
			$42 76
1843.			
Jan. 12.	By costs of G. Gulf Bank,	35 50	
25.	Wood *vs.* Shaw,	5 25	
Feb. 2.	Tibbits *vs.* Kenley and *als.*	5 00	
	Ellet *vs.* Bobo,	2 50	
	Summers & W. *vs.* Smyth,	2 25	
			50 50
	Am't forward,		$872 52
13.	To costs Compton *vs.* Clarke,	2 25	
	2 Exens, 18 s.	4 50	
	Martin, P. & Co. *vs.* Logan & Brown,	1 00	
	Same *vs.* P. Briscoe,	2 50	
	Agl. Bank *vs.* Wood's Adm'r,	50	
	Slocomb, R. & Co. *vs.* Bradshaw & Co.,	4 75	
	Am't rec'd of Sh'ff Newman,	8 50	
May 5.	Buch & E. *vs.* Wyche,	2 25	
1844.			
Feb. 19.	Planters' B'k *vs.* Humphreys,	6 75	
	Vertner *vs.* Watson,	2 25	
May 7.	Rogers *vs.* Tunstall,	1 75	
June 19.	Wells & P. *vs.* Mason, M. & Co.,	4 25	
July 31.	Hodge & M. *vs.* A. J. Bridewell,	1 75	
August.	P. & Hume *vs.* Sawyer & Wilroy,	4 75	
April 10.	Jeffries *vs.* Thomson, Adm'r,	2 25	
1846.			
Nov. 30.	Hodge & M. *vs.* Regan, Ad'm,	2 25	
1847.			
Oct. 16.	Williams *vs.* Jeffers & T.,	5 25	
			57 50
			$930 02
Deduct for erroneous credits and errors, &c. &c., the sum of			123 91
			$806 11

Eight hundred and six dollars and eleven cents is the actual sum collected, and the amount passed to credit of B. G. Humphreys, assignee R. J. Bland on my books.

DAN. McDOUGALL,
Clerk.

Decem. 22, 1847.

Exhibit No. IV.

DR. Richard J. Bland in account with Benjamin G. Humphreys.

1840.			
May 30.	To cash paid one half the penalty of your official bond for $15,000, given Nov., 1839,	$7,500	00
	To cash paid the full am't of the penalty of your official bond for $15,000, given Nov., 1837,	15,000	00
	Cash paid costs of suits at May T., 1840, on your official bonds, to wit:—		
	Planters' Bank Judgr. for $12,325 22 } 1st Bond.	242	85
	Do. do. 2,674 75 }	50	44
	Do. do. 1,285 33	27	87
	Grand Gulf Bank do. 992 77	24	49
	Do. do. 372 13	15	08
	Do. do. 879 89	22	68
	Do. do. 2,726 09	50	39
	Do. do. 112 50	14	88
	McNutt, gov. use, &c., 295 00	12	50
	Cash paid printer's bill,	16	00
Dec.	Cash paid H. S. Fulkerson for making out a list of Bland's fees,	160	00
Aug.	P'd expenses to Washington Co. attending to Carpenter execution,	40	00
Sept.	P'd J. W. Benton acknowledging deed from L. Crowly,	2	50
	P'd N. McDougall, do.	2	00
	P'd for blank book to record fees, &c.,	1	75
Nov.	Paid for taxes on Grand Gulf lots,	6	75
	Cash paid and due for expenses in the case of Leggett, Smith & Lawrence, as follows, to wit:		
	Costs paid in McNutt, use, &c. *vs.* Bland and *al.*	12	52
1850.			
Sept. 5.	Costs on appeal to Sup. Court in this case,	80	39
	Paid for copy of opinion in Sup. Court,	3	64
1849.			
Jan. 1.	Paid H. D. Gilpin counsel fee in Sup. Court,	500	00
	Paid Wm. Yerger do. Cir. Court,	150	00
	H. T. Ellett's fee in Circuit and Sup. Court,	500	00
	P'd for copy of deed of trust,	2	75
	P'd for copy of list of fees paid,	4	50

CR.

1841.		
Feb. 11.	By am't rec'd of V. Stamps, trustee, ¾ of the proceeds of the sales of trust property, deducting expenses,	$3,825 00
1842.		
May T.	By am't of Sheriff Bland's fees collected by Geo. H. Evans, sheriff, as per statement,	2,349 50
1847.		
Oct. 16.	By am't fees collected by Dan. McDougall, Clerk, to date,	806 11
1849.		
Oct. T.	By am't Bland's fees collected by Sheriff Moore to Oct. T., 1849,	132 46
	By costs paid A. Carey, in Lowery & Co. *vs.* Carpenter,	5 25

By this amount allowed by the commissioner in the case of Parish & Co. and *al. vs.* H. Carpenter & Co. and *al.*, in the State Chancery Court, for the judgment of the Planters' Bank *vs.* Hoopes, Moore & Carpenter, as of *November* 1, 1840, $10,855 93, which is pending before the chancellor on exceptions to said allowance, and may be altogether rejected.

The said sum of $10,855 93, with am't from Nov. 1, 1840, to Jan. 15, 1850, $7,996 82, making $18,852 75, has been paid over to Humphreys by order of the chancellor on his giving bond with security to refund it in case the claim shall be disallowed.

Proof.

Filed Nov'r 3d, 1852.

SUPREME COURT OF THE UNITED STATES.
December Term, 1849.

Gilpin.	1847, Oct. 22.	BENJAMIN G. HUMPHREYS, Compl't and App't, *vs.* LEGGETT, SMITH & LAWRENCE.	Mississippi C. C. U. S. Argued Ap'l 23–24. May 7, Decreed to be reversed with costs.
No. 79.			
Jones.			

Tuesday, April 23d, 1850.

BENJAMIN G. HUMPHREYS, App't,
vs.
LEGGETT, SMITH & LAWRENCE. } 79.

The argument of this cause was commenced by Mr. Gilpin, for the appellant.

Wednesday, April 24th, 1850.

BENJAMIN G. HUMPHREYS, App't,
vs.
LEGGETT, SMITH & LAWRENCE. } 79.

The argument of this cause was continued by Gen'l Jones, for the appellees, and concluded by Mr. Gilpin for the appellant.

SUPREME COURT OF THE UNITED STATES.

I, William Thomas Carroll, Clerk of the Supreme Court of the United States, do hereby certify, that the entries on the preceding page are true extracts from the Docket and Minutes of said Supreme Court, of December Term, A. D. 1850.

[L. S.] In testimony whereof, I hereunto subscribe my name and affix the seal of said Supreme Court, at the City of Washington, this 14th day of October, A. D. 1852.

WM. THOS. CARROLL,
Clerk Sup. Ct. U S.

Final Decree.

And afterwards, at the May Term, A. D. 1856, of the Court, aforesaid, to wit, on the 14th day of May, A. D. 1856, was entered in said cause, the following Final Decree, to wit:—

BENJAMIN G. HUMPHREYS,
vs.
THOMAS LEGGETT, Jr., SAMUEL SMITH, & SMITH LAWRENCE. } 133.

In Chancery.

This cause having been submitted to the Court on a former day of the present term on the bill, answers, exhibits, replication and proof, and on the cross bill for discovery, and the answer thereto, and exhibits, and the Court being now fully advised in the premises—It is ordered, adjudged, and decreed, that the injunction heretofore granted in this cause be made perpetual, and that the said defendants Leggett, Smith and Lawrence, and their agents and attorneys, be, and they are, hereby and forever enjoined and restrained from taking out any execution upon a certain judgment, rendered on the law side of this Court, on the fourteenth day of May, one thousand eight hundred and forty-five, in favor of Alexander G. McNutt, Governor, suing for the use of the said Leggett, Smith and Lawrence, against the said Humphreys, the complainant, for the sum of six thousand three hundred and fifty-five dollars and thirty-three cents, being the judgment mentioned in the bill of complaint in this cause; and that they be forever enjoined and restrained from taking or adopting any step or proceeding to enforce the payment of the said judgment, by the said complainant Humphreys, or the collection thereof, out of his estate. And it is further ordered, adjudged and

decreed, that the said complainant do recover of the said defendants in this cause, his costs of suit to be taxed.

Ordered, adjudged, and decreed, this 14th day of May, A. D. 1856.

S. J. GHOLSON.

From which decision the defendants pray an Appeal to the Supreme Court of the United States, which is granted upon their entering into bond, conditioned according to law, in the penal sum of five hundred dollars, with Armstead Burwell as security therein.

Appeal Bond.

Filed May 20th, 1856.

UNITED STATES OF AMERICA,
Southern District of Mississippi, sct.

Know all men by these presents, that we, Thomas Leggett, Jr., Samuel Smith and Smith Lawrence, and Armstead Burwell, are held and firmly bound unto Benjamin G. Humphreys in the just and full sum of five hundred dollars, lawful money of the United States, to be paid to the said Benjamin G. Humphreys, his lawful attorney, executor, administrator or assigns, for which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators jointly and severally, firmly by these presents; sealed with our seals, and dated the 17th day of May, A. D. one thousand eight hundred and fifty-six.

The condition of this obligation is such: That whereas, at a term of the Circuit Court of the United States for the Southern District of Mississippi, commenced and held at the City of Jackson, on the first Monday of May, A. D. 1856, a decree was rendered by said Court in favor of the said Benjamin G. Humphreys, against the said Leggett, Smith, and Lawrence, perpetually enjoining a certain judgment rendered in said Court on the 14th day of May, 1845, in favor of A. G. McNutt, Gov., &c., for the use of said Leggett, Smith, and Lawrence *vs.* said B. G. Humphreys, for the sum of $\$6{,}355\frac{33}{100}$ and costs of suit, and the said Leggett, Smith, and Lawrence have prayed an appeal to the Supreme Court of the United States, which is granted upon their entering into this bond with A. Burwell, security therein.

Now, if the said Leggett, Smith, and Lawrence shall prosecute his said appeal to effect, and shall well and truly pay and satisfy the amount of all such costs as the said Supreme Court of the United States shall adjudge in the premises, if they, the said Leggett, Smith, and Lawrence, shall fail to make their plea good, then and in

that case this obligation to be void, otherwise to remain in full force and virtue.

Sealed and delivered in presence of,

THOS. LEGGETT, JR. [SEAL.]
by A. BURWELL, *Atto.*
SAMUEL SMITH. [SEAL.]
by A. BURWELL, *Atto.*
SMITH LAWRENCE. [SEAL.]
by A. BURWELL, *Atto.*
A. BURWELL. [SEAL.]

UNITED STATES OF AMERICA,
Southern District of Mississippi.
Circuit Court U. S.

I, William H. Brown, Clerk of the said Circuit Court, do hereby certify, that the foregoing one hundred and thirty-five pages, and what is contained on this page, is a full, true, and complete transcript of the record of the decree, between the parties therein named, as the same now remains of record in my office, together with the appeal granted, and appeal bond filed therein.

In testimony whereof, I hereunto set my hand and affixed the seal of said Court at Jackson, this 17th day of November, A. D. 1856, and of the Independence of the United States the 81st.

[SEAL.] W. H. BROWN,
Clerk.

that case this obligation to be void, otherwise to remain in full force and virtue.

Sealed and delivered in presence of,

THOS. LEGGETT, JR. [SEAL.]
by A. BURWELL, *Atto.*
SAMUEL SMITH. [SEAL.]
by A. BURWELL, *Atto.*
SMITH LAWRENCE. [SEAL.]
by A. BURWELL, *Atto.*
A. BURWELL. [SEAL.]

UNITED STATES OF AMERICA,
Southern District of Mississippi.
Circuit Court U. S.

I, William H. Brown, Clerk of the said Circuit Court, do hereby certify, that the foregoing one hundred and thirty-five pages, and what is contained on this page, is a full, true, and complete transcript of the record of the decree, between the parties therein named, as the same now remains of record in my office, together with the appeal granted, and appeal bond filed therein.

In testimony whereof, I hereunto set my hand and affixed the seal of said Court at Jackson, this 17th day of November, A. D. 1856, and of the Independence of the United States the 81st.

[SEAL.] W. H. BROWN,
Clerk.